

# THE NEW DEMOCRACY



# THE NEW DEMOCRACY

## A POLITICAL STUDY

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## PREFACE

No patriot of our times, however ardent may be his faith in democracy, or however optimistic may be his expectations with regard to industrial progress, can fail to be deeply impressed by the gravity of the problems which await solution. The political atmosphere is charged with storm ; the unprecedented and bewildering complexity of social tendencies has given rise to a feeling of timorous unrest, at times to a deep and desponding sense of inevitable conflict. War and peace, democracy and autocracy, the syndicate and the trades union, socialism and individualism, the *régime* of competition and the cult of altruism ! The solution of these contradictions, apparent or real, lies in the future ; but in the meantime the State is certain to take a leading hand in attempted settlements, and this circumstance lends an altogether exceptional interest to suggestions for constitutional reform.

The cynical student of modern politics may be



disposed to remark that democracy is an excellent form of government but for two difficulties : no means exist for securing the adequate expression of public opinion, and the opinion would be of little value even if such means could be found. Most impartial men will dissent from such a view, yet it enjoys the merit of defining the two fundamental difficulties of present-day politics—how to express public opinion, and how to improve its value. The latter question must always claim priority in importance, but the former calls for more immediate attention. The attempts that have been made to adapt the representative machinery to new social and political conditions have proved lamentably inadequate. As a result, democracy has been compelled to face a new and almost overwhelming complexity of problems, under conditions which encourage a spirit of corruption and chicanery.

From the reality of evils one turns to consider the possibility of remedies. Two solutions of the problem of expression have received a measure of discussion and support from practical statesmen—the Hare system and the referendum. The solution of the problem of character has always been the same—popular education. But what kind of education? What subject is capable of improving the political judgment while attracting the popular attention? The consideration of such questions has led me to

enter a plea for the study of history—a subject often decried because its precise political value has been misunderstood, but possessing, as it appears to me, in a most unusual degree the power of informing and directing the political judgment, of arousing interest, and of stimulating enthusiasm.

Apart from the political problems already referred to, there is one other of great importance. I refer to the problem of political union. The great state is the political aspiration of European politics, and the question of how to effect an organic union between more or less alien populations has acquired a new and incalculable significance. The consideration of this problem, in connection with those already noted, suggests to the faithful believer in popular supremacy the hope of a new democracy, vast in territorial extent, and exercising a strong and improved public opinion untrammelled by the indignity of useless or mischievous restraints. Such a democracy would have difficult economic problems to solve, but it would bring to the discussion of these problems a more vigorous hand, and a stronger and more enlightened judgment.

Before following the outline suggested in the preceding paragraphs, the indulgent reader will excuse a statement which is ventured in a spirit of apology rather than of reminder. The chief obstacle to the solution of political problems consists, not so much in the abstruseness of the arguments which may be involved,

as in the prevalent disinclination to approach them in a comprehensive and impartial spirit. The political student must remember that political questions are rarely decided by single arguments. Unhappily, most of us are constantly acting under the spell of some one aspect which strongly appeals to us. We perhaps escape from its tyranny, only to fall a prey to some other aspect which has more visibly impressed us. All the problems of human life require a candid and comprehensive treatment—a courageous pursuit of truth though it may be found in the form of commonplace, and though it may be hostile to cherished convictions. But in political matters the need of such an attitude of mind is more than ordinarily conspicuous. The arguments are numerous and conflicting: the issues are often tremendous. The reader will bear with me, therefore, if I occasionally venture to remind him of facts which are unpalatable or even familiar. Although new illustrations are always possible, and new arguments are often possible, it is less upon such grounds that I would urge a claim to the reader's attention than upon the ground of an endeavour, not perhaps always successful but nevertheless invariably made, to be just to both sides of a question, to select real arguments from those which are false or irrelevant, and to group arguments worthy of serious attention in such a way as to effect their subordination to the

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fundamental principles by which their relative merits must be tested.

I have to acknowledge my indebtedness to the editor of the *Law Quarterly Review* for permission to republish the chapter dealing with the Hare system, and to the Rev. H. W. Horwill, M.A., for generously consenting to revise the proof-sheets.

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## CHAPTER I

### THE PRESENT THEORY OF REPRESENTATIVE GOVERNMENT AND DEMOCRACY

REPRESENTATIVE government has often been regarded as the greatest political achievement of the Teutonic race. Yet its existence is being challenged, and its fate is uncertain. In the Old World its proved inadequacy has created a feeling of profound unrest ; in some circles a growing desire for revolutionary change. Even among many ardent supporters, faith and hope are being chilled by a sense of increasing difficulties. So far as the European continent is concerned, the present state of things may be partly attributable to the circumstances of inferior historical origin, or to the absence of certain useful contrivances, which exist in our imperial or colonial constitutions and tend to preserve the integrity of government by party—the apparently indispensable feature of government by a representative chamber. But the existence of dissatisfaction in England itself suggests the operation of a more general cause. There is a growing belief that we are paying the price of democratic progress in the

The outlook

shape of a relatively lower level of legislative and administrative efficiency. The price may be reasonable or unreasonable, accidental or inevitable; but that it is being paid on a liberal scale is the melancholy conviction of many competent judges.

The different points of view.

There are two schools of theorists who survey the present situation with excusable complacency. On the one hand, there are the Cæsarists, who look for the rule of the strong man as the inevitable result of the disrepute into which representative government has fallen. These are they who cry—

Ah, God, for a man with heart, head, hand,  
Like one of the simple great ones gone  
For ever and ever by ;  
One still strong man in a blatant land,  
Whatever they call him, what care I,  
Aristocrat, Democrat, Autocrat—one  
Who can rule and dare not lie.

On the other hand, there are the extreme democrats, who affirm the unsatisfactoriness of any political system which fails to achieve political equality. It is often contended, by implication rather than expressly, that the abler minds will ever have as much power as is good for the commonweal, and that the opportunities involved in the formal recognition of the aristocratic principle by representative government are therefore uncalled for and mischievous. Both the extreme democrats and the Cæsarists may desire to retain *parliamentary* government, but the ambitions of either school are inconsistent with *representative* government; the Cæsarists would regenerate the race by the power and resources of its few great leaders;



the extreme democrats hope to secure salvation by the incessant political activity of the great masses of the people.

It is not proposed, in the present chapter, to vindicate the merits, or to expose the demerits, of the political system which so many seem anxious to discard. It will be more logical, as well as more important, to begin with the humbler task of definition. What is the nature of the present theory of representative government and democracy? Does that theory imply that we have reached, as some appear to think, the parting of the ways? Such questions are not so hard to answer as might be supposed. Amidst all the diversities of modern politics it is still possible to formulate a theory which will do fair justice to the conceptions of the majority of those citizens who take an intelligent interest in political questions. The work of definition will be more easy if we begin by an enumeration of certain ideals which are very generally discarded. There are, for example, a certain class of thinkers who still contend that no system is truly representative unless it includes a special representation of property or of capacities, as well as of numbers. Whatever truth there may be in such contentions, they constitute no essential part of the present theory. It is necessary, however, to examine the arguments by which they have been supported, and the reasons why they have failed to secure a more general sympathy.

Purpose of  
this chap-  
ter.

Elements  
no longer  
generally  
deemed  
essential.

Property, it has often been said, should be specially represented. Every taxpayer may claim a voice in

(1) Pro-  
perty: its  
claim to  
special  
representa-  
tion

the government, but the power of that voice should vary according to the amount which the individual contributes to the public funds. In the State, no less than in the private company, there should be some connection between voting capacity and the extent of one's proprietary interest. And the formal recognition of this connection would be for the popular good. The interests of all are in the long run best conserved by carefully guarding the savings of the thrifty and the industrious. Equality of voting power necessarily places all power in the hands of the numerical majority and therefore means the constant exposure of the many to the temptation of demanding taxes which the few are compelled to pay. But if the exceptional reward, which rightly belongs to exceptional merit, is subject to constant and unreasonable imposts, the genius of thrift and industry vanishes. The prodigal alone is wise!

Why this claim is generally denied.

It would not be difficult to point out the fallacy of certain parts of this statement, and the real force of the remainder. But I am less concerned with the character of these arguments than with the fact of their disrepute. The explanation of that disrepute illustrates the profound truth that popular views are determined by predispositions rather than by arguments. We are, in fact, reminded of a great historical analogy. There are good reasons for holding that the Passive Obedience controversy of the seventeenth century turned in favour of the monarchists; certainly no Puritan pamphlet was comparable with the Discourse of Berkeley. But the real struggle was

outside and beyond controversialists, and went for freedom ; arguments were discredited less by opposing arguments than by the invincible logic of events. Similarly, in our own time, political views, often associated with great names and apparently forcible, have been rejected, not because their weakness has been exposed, but because the ears of the many have become insensibly closed to them. The claims to special representation of property have been overborne by the sheer force of the democratic tendency. The upward pressure of the masses has been momentous and irresistible, and its influence upon the imagination has been overpowering ! The opposition of arguments has proved wholly unavailing. Of course the fact of change has not been wholly unattended by justifying theory. For instance, it is often said that the representation of property, though adequately secured by the existence of Upper Houses, has been no unqualified success in the past ; that the representatives of property have often forgotten their true mission and selfishly employed their influence for the exclusive advantage of their class ; and that, in any case, property will always be sufficiently strong without any provision for its special representation in Parliament. Such arguments are respectable ; but that they are commonly regarded as conclusive is less due to any logical superiority than to the existence of the tendency to which I have referred—a tendency the reality of which is attested by the history of Upper Houses within the limits of the British Empire. Where

Justifying  
theory.

they are elective, constant attempts are made to lower their franchise; where they are not elective their very existence is threatened.

(2) Special capacity : claim to representation.

There is a second ideal of representative government which our time discredits both in practice and theory. It was once widely held that a formal recognition of special capacities was an essential condition of true representation. "If," wrote Mill, "every ordinary unskilled labourer ought to have one vote, a skilled labourer ought to have two, a farmer, manufacturer, or trader should have three or four, a lawyer, physician or surgeon, a clergyman of any denomination, a literary man, an artist, a public functionary, ought to have five or six." More recently a celebrated writer appears to advocate the principle which underlies Mill's proposals. "In every field of human enterprise," writes Lecky, "in all the competitions of life, by the inexorable law of nature, superiority lies with the few and not with the many, and success can only be attained by placing the guiding and controlling power mainly in their hands. That the interests of all classes should be represented in the legislature; that numbers as well as intelligence should have some voice in politics, is very true; but unless the government of mankind be essentially different from every other form of human enterprise, it must inevitably deteriorate if it is placed under the direct control of the most unintelligent classes."<sup>1</sup>

Such arguments are forcible. It might be added

<sup>1</sup> *Democracy and Liberty*, vol. i. pp. 21, 22.

that they are fruitless—fruitless, not because of the strength of hostile criticism, but because of the mental constitution of the auditors. The song may be beautiful, but it has the fatal disadvantage of being addressed to an audience whose minds are not attuned to it; the music which thrills the soul of the singer falls unheeded on the ear of the listener. Under the influences of an irresistible social tendency, men's minds are fashioned to reject conservative arguments without weighing them. Of course here, as elsewhere, a theory has grown with and adapted itself to the fact; but it is as much a consequence as a cause. What is this theory? It consists of three arguments, each of which can lay some claim to respectability. The first is one of principle. There is no necessary connection, it is said, between the qualifications of farmer, manufacturer, lawyer, physician, or surgeon on the one hand, and increased political wisdom on the other. Certainly, the mere fact of education should confer no political favour. Not only has education been largely active as a class element in politics, but its value, even when uninfluenced by sinister motive, is open to serious criticism. As Comte says, "clear-sightedness, wisdom, and even consistency of thought are qualities which are very independent of learning." So Milton wrote to his famous adversary, "Whosoever, therefore, he be, though from among the dregs of the common people, that you are so keen upon, whosoever I say has but sucked in this principle, that he was not born for his prince, but for God and his country; he

Why this claim is generally denied.

Justifying theory.  
(a) From principle.

deserves the reputation of a learned and an honest and a wise man more, and is of greater use in the world than yourself. For such a one is learned without letters; you have letters but no learning, that understand so many languages, turn over so many volumes, and yet are but asleep when all is done." <sup>1</sup>

(b) From  
difficulties  
of detail.

The existence of apparently insuperable difficulties of detail is a second argument which is commonly urged against the representation of special capacities. Who is to be entrusted with the laborious task of drawing up a schedule wherein each class shall be allotted its fair share of voting power? The person or body who assumed such a task, it is urged, would need the patience of a saint and the wisdom of a god. Mediæval schoolmen classified men by adopting a scale according to which genius was represented by four, learning by five, and judgment by seven. But such niceties are abhorrent to the political spirit. A classification so obviously artificial, so likely to result in injustice, and so certain to excite hostility, should be condemned as impracticable.

(c) Present  
power of  
special  
capacity.

A third objection to the representation of special capacity, based upon the extent of the power which special capacity already exercises, is less often asserted. But it is by no means destitute of force. It is only in imagination, it may be urged, that one hundred cabmen have the same power as one hundred merchants. Practically, superior worth in the individual gives to him a political influence or following which

<sup>1</sup> Milton's *Works*, vol. i. p. 30.

increases in direct proportion to his reputation. This may be a rough way of arriving at the result which is desired; but it would appear to have proved sufficient in the past. The apparent dangers of the future might seem to afford occasion for new fears, but it must not be forgotten that the tendency of modern inventions is to facilitate the rapid dissemination of opinion, and therefore to enhance the power of those whose wealth, ability, or education enables them to claim a special consideration for their views.

The difficulties of generalisation increase when we turn from the consideration of generally discarded ideals to the statement of present theory. While there is a more or less general agreement as to the fact of certain non-essentials, when it comes to determining what really *are* the essentials, every man is likely to attach an undue importance to his own convictions, or to the peculiar circumstances of his environment. The impartial reader must determine for himself how far I have escaped these dangers.

The present theory of representative government.

In the first place, it is necessary that a representative should be chosen by those whom he is supposed to represent. The early English jury of twelve men, "*representing* the hundred," were chosen by knights nominated by the sheriff.<sup>1</sup> In such a connection the term is misleading. Strictly speaking, a man can only be represented by some one over whose selection he exercises a direct control. The chief practical question arising in this connection relates to the franchise. Upon what lines is it customary to

(1) Representatives must be chosen from below.

The Franchise.

<sup>1</sup> Pollock and Maitland, *History of English Law*, vol. ii. p. 419.

determine the right to vote? There can be little doubt that the exploded but useful fallacy of natural right still exercises a paramount influence in popular discussions upon this subject. The increasing force of the women suffrage movement is doubtless an exemplification of the great democratic tendency to which I have so often referred; but in so far as the movement finds justification in the popular mind, it must be admitted that the evidences suggest a conception of abstract rights altogether independent of social expediency. "I am for women's suffrage on the ground of principle," says the average voter. And it is not difficult to guess the kind of principle to which he is referring. On the other hand, among those who have outgrown this stage, and who recognise that the right of any particular section to claim the exercise of the franchise must be dependent upon considerations of commonweal, a somewhat similar conclusion is reached by a more circuitous method. A presumption in favour of the expediency of granting political privilege to all adults is rapidly growing, and at present has almost acquired sufficient strength to place the *onus probandi* on those who deny, rather than on those who affirm, its actual existence.

(2) The  
representa-  
tive is a  
person

The second essential of the present theory of representative government cannot boast of the repute which it once enjoyed. It is still, however, indispensable. A *representative* is not a lay figure upon which the elector may hang his own opinions; but a *person* claiming to *act* as a person. This is a question, not of the excellence of representative government,



but of its definition. If the chosen deputy of the people should ever become a mere mechanical device for the registration of votes, a direct democracy would be established. The goal might or might not be desirable; in either case it would be something quite distinct from representative government. True, we are often told that this stage has been reached; but such statements are not to be taken too seriously. As a matter of fact the parliamentary member still enjoys considerable freedom; both before his election and after, he may bring his eloquence to bear upon the electorates; and even if he fail to carry a majority, it is only on a very few questions, often of a purely local or temporary character, that an absolute conformity of opinion is demanded. The popular adoption of the term "delegate" to denote the hand-tied politician is a proof of the clear appreciation which exists as to the distinction between the representative and the lay figure.

About the third essential in the present theory of representative government there can be no difference of opinion. Although the chosen deputy must be entrusted with discretionary powers, his authority is not unlimited. He is fettered by the terms of his electoral address, and by the necessity of submitting his conduct to the general criticism of his constituents. From this point of view, it is possible to distinguish three stages in the evolution of the idea of representation. It was once thought that your representative could be chosen *for* you; it came to be recognised that he must be chosen *by* you; it is now required

(3) The power of the representative is limited.

that he should be *subject to your general supervision*. A system of government in which the exercise of the franchise could be regarded as a temporary abdication of political power would not satisfy the requirements of the representative theory.

Reconciliation of second and third essentials.

How are the apparently contradictory essentials of "discretionary power" and "liability to popular control" reconciled in actual practice? A very approximate answer to this question may be gathered from observing the conduct of voters at an ordinary election. In the choice of candidates three distinct tests may be applied—the test of personal qualification as displayed by reputation, by position, or by any other of the means which are capable of appealing to the elector; the test of a general correspondence of views; and, finally, the test of a correspondence with the views of the elector on certain essentials upon which special emphasis is laid. A particular voter may be content with the application of one of these tests, but it is far more usual to employ the whole three. The relative emphasis which, consciously or unconsciously, the average elector lays upon them, determines the precise nature of that discretion which the successful candidate may claim to exercise. The question is, therefore, a very delicate one, and rests between the representative and his constituents. A strong man will rightly claim to do much; a weak man can afford to do but little.

Definition of representative government.

The foregoing analysis may be easily expressed in the form of definition. Representative government is that political system under which the civil power

is exercised by deputies chosen by a considerable portion of the population to act as their discretionary but responsible agents. Ideally, therefore, it is the rule of the best, tempered by their general responsibility to that body of electors to whose choice they owe their elevation, and to whose views they must in the long run defer. Critically examined, it is seen to be a compromise between the absolutism of the few and the absolutism of the many. Its supporters claim that it secures the best government conceivable; that the people are educated by the exercise of power; and that government is secured from the evils of selfishness by the representation of all classes, and from the imputation of incapacity by the contrivance for utilising the wisdom of the few. "Plurality," said Pascal, "which does not reduce itself to unity, is confusion. Unity which is not the result of plurality, is tyranny."

Representative democracy is something more than representative government, and requires for its definition a further element upon the precise character of which there is some difference of opinion. While many ask for nothing beyond manhood suffrage, others look upon democracy as implying an absolute equality of political power, and as therefore quite inconsistent with the theory of representative government. Of these two views the former is wholly inadequate to express the popular conception of democracy; the latter is inherently absurd since it expresses a state of society which can never exist. The truth is that the definition of democracy is changing. To the formal test of suffrage, which was

Representative  
democracy.

once regarded as sufficient, our generation has added a material test of a vaguer character. The political creed of the latter-day democrat, *as distinguished from his economic creed*, may perhaps be expressed as follows:—

I hold that no citizen should be preferred to another; that the only justification for State interference is the general welfare; and that the man whom circumstances of birth, character, or training have condemned to an obscure or illiterate poverty is, in the last analysis, as fully entitled to the consideration of the legislator as the most cultured, the most able, the most upright citizen in the community. I believe in the good of all as the only end of government. I believe that this end can only be attained by entrusting the people with a very large share of the powers of government; that only in this way can fair legislation be secured, and the people be raised to a due sense of their real dignity and responsibilities.

But what is meant in this creed by “a very large share in the powers of government”? This question can only be answered by the application of a double test. On the one hand, there is the formal test of numbers; there can be no rule of the people without an approximation to manhood suffrage. On the other hand, there is a material test; it is not sufficient that the many should have a share in the government. Even if universal suffrage existed, a failure on the part of the many to control their parliamentary representatives would be fatal to the profession of

democracy. What degree of popular control is really necessary is a question which cannot be answered after the manner of the logician. It can only be said that the degree must vary from time to time as the ideal of democracy develops; and that at the present moment this may be represented as slightly in advance of existing facts. Democracy is an aspiration rather than a fact, and it is one of those aspirations which are progressive, and keep well in advance of fact. It is not inconceivable that the process may go on indefinitely, since popular feeling will demand, and the improved character of popular education will be held to justify, constant extensions of the scope of public opinion as a governing power. Subject to such an interpretation, representative democracy may be described as representative government, based on approximately universal or manhood suffrage, and accompanied by a stringent control over the parliamentary representative: more briefly, as a political system under which the people rule through chosen deputies over whom they exercise a real and constant control.

## CHAPTER II

### THE REAL DEFECTS OF DEMOCRACY

Purpose of  
this chap-  
ter.

In the literature of our time I do not know where to find a brief yet systematic and fairly comprehensive statement of the difficulties under which existing democracies labour. It is easy to explain this want by reference to such circumstances as the novelty of the subject and the facility with which new troubles are constantly making their appearance. Yet some such statement as that to which I have referred is almost indispensable to the consideration of democratic problems. One of the gravest dangers of our time is the frequent amendment of political institutions on the part of well-intentioned reformers who act under the inspiration of a more or less fragmentary view of the dangers which have to be met. In the summary which I shall here venture to offer, a disinterested reader may be apt to be impressed by the apparently overwhelming character of the case against popular government. Yet nothing is further from my intention than to present an indictment. Democracy is with us and must be accepted. To those who regret the circumstance, or to those who rejoice over

it, there is but one course—the candid recognition of defects with a view to their gradual amelioration.

Modern or representative democracy is a compromise between two political systems—representative government and direct democracy. Only a novice would venture to look for a combination of the merits, and an exclusion of the vices, of both systems. In life, compromises of this description are mythical. Representative democracy, with all its advantages, is exposed to two distinct classes of dangers, which are respectively due to the presence of aristocratic and democratic elements. The examples of the former are too obvious to call for much discussion. Just in proportion as the superior powers of the few form the guiding principle of legislation, just in proportion as the aristocratic element in the constitution is sufficiently real to be of practical value, the community are deprived of the educational influences of political responsibility, and are exposed to the dangers of exploitation in the interests of those whom they have placed in power. It is, of course, true that the latter evil appears to be declining; that available superior capacity is no longer the monopoly of a class; and that various practical expedients, in some places payment of members, have been devised for the purpose of giving political expression to the changed conditions. But even when a Parliament is elected *by* all classes and *from* all classes, there are still many ways in which it may consciously or unconsciously prefer the interests of individuals or of classes to the interests of the nation.

Evils traceable to the aristocratic element in modern democracy.

Practical  
illustra-  
tions.

Within the limits of the empire the conservatism of Upper Chambers is one very practical form in which the fact presents itself to the popular mind. Proposals to render the opposition of the Upper House nugatory have assumed various forms, and, under the guise of preventing deadlock, have excited some ill feeling in colonial politics. Probably, however, there is more real danger to be feared from abuses in the sphere of administration. In Australia some attempts have been made to save the Cabinet Ministers from the temptations of social patronage by conferring the right of appointing public officials upon special committees acting without parliamentary responsibility, and therefore without amenability to coercion upon the part of importunate members. But all such devices can only be very partially successful. A constant watchfulness is the price of safety. The reform of to-day becomes the abuse of to-morrow, and the salvation of democracy must depend upon the constant suggestion of new remedies adapted to the changing conditions of society.

Evils  
accom-  
panying  
the demo-  
cratic ele-  
ment.

On the other hand, we have to consider a number of dangers which, as they arise from the presence of the democratic element in the constitution, vary in direct proportion to the extent to which that element obscures the aristocratic. The people desire to rule. But the popular capacity is small, and the present machinery for its expression is very unsatisfactory. The defects of existing democracy, on its democratic side, may therefore be grouped under one or other of two heads, according as they result from the limita-



tions of average individuality, or from the mechanical difficulties involved in the attempt to secure unity of action out of a plurality of divergent wills. Although the distinction does not apply with logical exactness, it is sufficiently real for the purposes of practical politics.

The illustration of the classification just suggested requires a preliminary notice of certain facts which are the occasion of much unfair criticism. The first of such facts is the increased facility for making money which is imposing so great a strain upon the commercial morality of our time. This is mainly the result of scientific progress, and the connection with democracy is very indirect. Much of the corruption which has been attributed to democracy is really no more than the inevitable result of material progress, and would have taken place under any form of government. "To-day," writes Bodley, "the monopolists or railway kings at New York and Chicago, or the financiers, Jew and Gentile, of London and Paris, have more influence in shaping the ethics of the world than all the philosophers had in the eighteenth century; and with the aid of the telegraph, which puts two hemispheres in as close communication as two adjacent streets, the financial operators of the globe form a fraternity powerful to set up and maintain its moral code in cities and in lands remote from one another. Our generation is not the first to have seen populations demoralised by the desire of riches, but the crises thus caused in the past were isolated and localised."<sup>1</sup>

False accusations against democracy arising from (1) increased facility for making fortunes.

<sup>1</sup> Bodley, *France*, p. 299.

(2) Com-  
plexity of  
affairs.

The failure of democracy to settle satisfactorily a number of problems which owe their existence to the growing complexity of human affairs has afforded another occasion for unfair criticism. The constant invention of new means for facilitating international trade and intercourse, the increased economic efficiency of the worker due to machinery and co-operation, the elaboration of an intricate and delicate system of credit, and the extraordinary development of urban populations at the expense of rural, have combined to increase the number and difficulty of our political problems to an unprecedented extent. To compare democracy with aristocracy and to accuse it of hesitancy, inconsistency, and blunder suggests the fallacy of judging the progress of competitors without any reference to the difficulties of the obstacles they have severally had to overcome.

(3) The  
want of  
good  
leaders.

The want of good leaders in democracies has afforded another opportunity for unjust criticism. Although much of the accusation which is made in this connection is deserved, impartiality requires us to analyse the fact of an absence of good leaders into certain subordinate facts of which some are really defects of democracy, whilst others are due to independent circumstances and would operate on all forms of government alike. An example of the latter class may be found in the preceding paragraphs. The increased facilities for making money and the many-sidedness of modern life have tended to entice the <sup>\*</sup>abler members of the community away from government to other pursuits. The field of distinction open

to the modern citizen is so extensive, and the means of reaching it so numerous, that the State must inevitably feel the burden of the competition. This, of course, is the result of industrial progress and has little but indirect connection with democracy. On the other hand, there are two other explanations of the want of good leaders, which, as they arise directly from the defects of democracy, will require some examination in the course of this chapter. I allude to defects in the present methods of choosing representatives, and to that peculiar defect of the popular character which tends to take the form of a preference for mediocrity. Such explanations are, in fact, no more than forms of the division already referred to, and to which we may now return—the division of the defects of democracy into those which have their origin in difficulties of machinery, and those which have their origin in the limitations of average individuality.

*Demos is dumb.* The phrase is familiar, and aptly formulates one-half of the troubles of democratic government. Unhappily, the problem of securing an expression of popular opinion is increasing in difficulty. "It is now," writes Godkin, "very rare to meet with one of the distinctly defined characters which education, conducted under the regime of authority, used to form, down to the close of the last century. There are really no more 'divines,' or 'gentlemen,' or 'Puritans,' or 'John Bulls,' or 'Brother Jonathans.' In other words, there are no more moral or intellectual moulds. It

I. The difficulties of machinery.

used to be easy to say how a given individual or community would look at a thing; at present it is well-nigh impossible. We can hardly tell what agency is exercising the strongest influence on popular thought on any given occasion. Most localities and classes are subject to some peculiar dominating force, but if you discover what it is, you discover it almost by accident. . . . It would be difficult to-day to say what is the American opinion, properly so-called, about the marriage bond. One would think that in the older states, in which social life is more settled, it would strongly favour indissolubility, or, at all events, great difficulty of dissolution. But this is not the case. In Connecticut and Rhode Island divorce is as easy, and almost as little disreputable, as in any of the newer Western states. In the discussion on the currency, most observers would have predicted that the power of the government over its value would be most eagerly preached by the states in which the number of foreign voters was greatest. As a matter of fact, these states proved at the election to be the firmest friends of the gold standard. Within our own lifetime the Southern or cotton states, from being very conservative, have become very radical, in the sense of being ready to give ear to new ideas. What we might have said of them in 1860 would be singularly untrue in 1900. One might go over the civilised world in this way, and find that the public opinion of each country, on any given topic, had escaped from the philosophers, so to speak,—that all generalising

about it had become difficult, and that it was no longer possible to divide influences into categories.”<sup>1</sup>

If we study the circumstances which, in actual Division. practice, militate against the adequate expression of popular opinion, we find it necessary to distinguish between difficulties which are accidental and avoidable by wise legislation, such as result from the inorganic character of the representative system; and, on the other hand, those which are necessary and beyond the apparent hope of removal, such as party government and government by majorities. It need hardly be mentioned that necessary evils call for the attention of the reformer no less than those which are accidental. An evil may exist in various degrees, and the reformer has carefully to keep in view the importance of alleviating what he cannot cure, and what he is very apt to aggravate.

*The inorganic character of the present system of representation* involves evils of a very serious character. The electors of a typical constituency are united by no bonds of kinship, and indeed represent every variety of political opinion. The result at an election is often curious. Suppose three candidates, A, B, C, to be available. The choice of the elector is confined to one or other of these. He may desire to be represented by a person of A's character, of B's general opinions, and of C's opinions upon certain particular questions which he regards with peculiar interest. What is he to do? Clearly, he must strike a balance. But the necessity for

1. Inorganic character of representative system.

<sup>1</sup> Godkin, *Unforeseen Tendencies of Democracy*, pp. 210-212.

striking a balance tends to confuse the popular verdict, often to weaken popular interest, and still more often to chill the enthusiasm of possible candidates who would gladly represent constituencies of their own views, but who object to compromising their convictions for the sake of uniting discordant groups of electors. When an election has actually taken place and C is chosen, the supporters of A or B are left to console themselves with the hope that their sympathisers in other constituencies may have been more fortunate. But this is leaving far too much to chance. If, for example, the labour vote should succeed in completely organising itself, the result would be a Parliament of labour leaders!

11. Necessary evils.

(1) Party government.

It is not too much to hope that such evils may be overcome by future legislation. But there are a class of evils which, though they originate in the mechanical difficulties of securing unity of action from a plurality of wills, are apparently inevitable under any democratic system, however wisely devised. The first of these is party government—the great instrument by which the opinions of the multitude are influenced, formulated, and made politically effectual. I speak of this evil as necessary, because healthy modern democracy without it is inconceivable. How can Demos speak without organisation? How can Demos be organised without party? But though essential to democracy, party is liable to become under that form of government a serious menace to character. The intensity which it acquires may sap the foundation of public morality;

party ends may be held to justify any means necessary to attain them ; and a robust individuality of temperament is scarcely attainable under the conditions of party despotism.

Whatever may be the evils of party government, there can be no doubt of the utility, as well as of the necessity, of the institution itself. The alternative to party government is the system of government by small groups. In Australia the evils of this alternative have been occasionally displayed in practical politics ; but it is to France that we must look for their supreme illustration. According to the most recent English exponent of French politics, most of the unsatisfactory features in the Parliamentary institutions of France may be traced to the absence of the party system. "There is no restraining power in the French Parliamentary system to arrest a member on his easy descent, and he knows that if he escape penal condemnation he will enjoy relative impunity. Many deputies are men of high integrity ; but virtue in a large assembly is of small force without organisation, and moreover a group of legislators leagued together merely as a vigilance committee would have neither consistency nor durability, which the discipline of party can alone effect. Corruption of this kind, which has undermined the Republic, could not coexist with party government. A party whose ministers or supporters had incurred as much suspicion as fell on the politicians acquitted in the Panama affair would under it be swept out of existence for a period. When the first denunciations

Want of  
party  
govern-  
ment in  
France.

appeared, the leaders of the party to avert that fate would have said to their implicated colleagues: 'In spite of your abilities and of the manifest exaggeration of these charges we must part company, for though you may have been culpable only of indiscretion, we cannot afford to be identified with doubtful transactions'; and the Opposition, eager not to lose its vantage, would scan with equal keenness the acts of its own members. With party government the electorate would not have appeared to condone those scandals. But as it was, when a deputy involved in them went down before his constituents, whose local interests he had well served, with no opponent more formidable than the nominee of some decayed or immature group, they gave their votes to the old member whose influence with the prefecture in the past had benefited the district, rather than to the newcomer whose denunciations had no authority; whereas had each electoral district been the scene of a contest between organised parties, the same spectacle would not have been presented."<sup>1</sup>

(2) Majority rule.

A second evil of the mechanical and necessary character is to be found in the fact that democratic government involves the *rule of the majority*. As the people possess no single will, they are compelled to govern by counting heads. I have already referred to the failure of the present system to ensure the representation of minorities; but the present evil goes further and is incurable. Even where minorities are represented, the national majority must ultimately

<sup>1</sup> Bodley, *France*, vol. ii. pp. 302, 303; cf. pp. 163, 324.



decide disputed questions. But unfortunately, the majority which is conscious of its power may not choose to consult the welfare of the whole. It is apt to forget that its permanent advantage is best consulted when the interests of the minority are properly guarded. "Very strong arguments," says Mill, with much truth, "may be, and often have been, adduced to show that either a king or a governing senate are in much the most enviable position, when ruling justly and vigilantly over an active, wealthy, enlightened, and high-minded people. But a king only now and then, and an oligarchy in no known instance, have taken this exalted view of their self-interest: and why should we expect a loftier mode of thinking from the labouring classes? It is not what their interest is, but what they suppose it to be, that is the important consideration with respect to their conduct: and it is quite conclusive against any theory of government, that it assumes the numerical majority to do habitually what is never done, nor expected to be done, save in very exceptional cases, by any other depositaries of power—namely, to direct their conduct by their real ultimate interest, in opposition to their immediate and apparent interest."<sup>1</sup>

Two circumstances add considerable force to the foregoing observations. In the first place, "division of political power into small fragments" involves a corresponding weakening of the sense of responsibility. As Burke pointed out, the share of infamy

*Its dangers.*

<sup>1</sup> Mill, *Representative Government*, chap. vi.

that is likely to fall to the lot of each individual in public acts, is small indeed; "the operation of opinion being in the inverse ratio to the numbers of those who abuse power." In the second place, the sense of irresponsibility is fostered, not only by the mere fact of quantitative division, but also by the intoxication which awaits all who exercise a supreme control. A decision of the majority, like the philosopher's stone, turns everything to gold; once secured it justifies anything—past, present, or future. It is an indulgence supported by all the power of popular infallibility.

(3) Weak  
adminis-  
tration.

The difficulties of democratic government which are at once mechanical and inevitable, receive a further illustration in the sphere of *administration*. In the legislative department of government, the delays involved in securing unity of action among a plurality of wills are relatively unimportant. But in the sphere of administration, delay or hesitation is often fatal. In no department of administration is the defect so apparent as in the control of external policy. Here secrecy in council, diplomacy in negotiation, promptitude in action, are of supreme importance. So fatal have these barriers proved to popular ascendancy, that the sphere of administration is nowhere more than very partially democratised. The reality of the difficulties is very clearly attested in the history of the past. Again and again the progress of the national life towards democratic institutions has been delayed, or even reversed, by the necessity of adaptation to the exigencies of external

politics. Other things being equal, modern political progress towards democracy has been most rapid where there has been most security from foreign attack. As every one knows, the insular position of England has exercised an incalculable influence upon the drift of English politics. Whether the development of a new imperial policy will exercise as strong influence in the contrary direction, remains to be seen.

The presence of the democratic element in the constitution is responsible, as we have seen, for certain difficulties and dangers of which some are remediable, while others are inevitable. It must be quite clear that such evils, although they have their origin in mechanical difficulties, derive their chief force from defects in the popular character. What are those defects? The people would rule; but the people are uninformed, often narrow in sympathies, often devoid of ability, often, alas, indifferent. No one will question this statement; no one will imagine that a democracy, so handicapped by the limitations of average individuality, can achieve a high level of efficiency. This is the real trouble. However we regard the subject, from whatever point of view we start, we are always brought sooner or later to the great problem of character. There can be no occasion to pursue a subject which has received so much attention from learned authors. There is, however, one special aspect of the question to which a brief reference may be allowed. I allude to the very widely spread evil of indifference. A momentary attention is

II. Limitations of average individuality.

awakened by a new election, a new tax, possibly a glaring instance of political corruption. Then the exhausted brain, anxious for rest or for diversion, returns to the consideration of more congenial topics. In all existing democracies there is a very large class of persons who take a wholly inadequate interest in political questions, and vote, often with the best intentions, under the plausible guidance of incapable or dishonest leaders. This half interest is worse than abstention and tends to obscure, rather than to effect, the expression of public opinion. At times the despondent patriot is apt to believe that pure democracy is one of the least representative of governments. "Every one who will look facts honestly in the face," exclaims a censorious author, "can convince himself that the public opinion of a nation is something quite different from the votes that can be extracted from all the individuals who compose it. There are multitudes in every nation who contribute nothing to its public opinion; who never give a serious thought to public affairs, who have no spontaneous wish to take any part in them; who, if they are induced to do so, will act under the complete direction of individuals or organisations of another class. The landlord, the clergyman or dissenting minister or priest, the local agitator, or the public-house keeper, will direct their votes, and in a pure democracy the art of winning and accumulating these votes will become one of the chief parts of practical politics. Different motives will be employed to attain it. Sometimes the voter will be directly bribed or directly intimidated. He

will vote for money or for drink, or in order to win the favour or avert the displeasure of some one who is more powerful than himself. The tenant will think of his landlord, the debtor of his creditor, the shopkeeper of his customer. A poor, struggling man called on to vote upon a question about which he cares nothing, and knows nothing, is surely not to be greatly blamed if he is governed by such considerations. A still larger number of votes will be won by persistent appeals to class cupidities. The demagogue will try to persuade the voter that by following a certain line of policy every member of his class will obtain some advantage. He will encourage all his utopias. He will hold out hopes that by breaking contracts, or shifting taxation and the power of taxing, or enlarging the paternal functions of government, something of the property of one class may be transferred to another. He will also appeal persistently, and often successfully, to class jealousies and antipathies. All the divisions which naturally grow out of class lines and the relations between employer and employed will be studiously inflamed. Envy, covetousness, prejudice, will become great forces in political propagandism. Every real grievance will be aggravated; every redressed grievance will be revived; every imaginary grievance will be encouraged." <sup>1</sup>

<sup>1</sup> Lecky, *Democracy and Liberty*, vol. i. pp. 16-18.

## CHAPTER III

### THE HARE SYSTEM, WITH SPECIAL REFERENCE TO ITS APPLICATION IN TASMANIA

History of  
the Hare  
system.

THE fate of the Hare system constitutes one of the most remarkable chapters in the history of representative government. Mr. Hare's treatise, *The Election of Representatives*, was published in 1859. It claimed to have discovered a remedy for some of the most serious of the evils to which democracy is subject, and almost immediately received a flattering, if not a popular, attention. In 1860 the celebrated Henry Fawcett published *Mr. Hare's Reform Bill simplified and explained*. In the following year the *Representative Government* of John Stuart Mill appeared. The latest advocate spoke in no uncertain tone: "Mr. Hare's scheme has the almost unparalleled merit of carrying out a great principle of government in a manner approaching to ideal perfection as regards the special object in view, while it attains incidentally several other ends, of scarcely inferior importance. . . . Such and so numerous are its advantages that they place it among the very greatest improvements yet made in the theory and practice of government."

Such commendation, if it failed to evoke enthusiasm, might at least have aroused interest. No champion came forward to defend the older system: many of the evils which the new was designed to remedy were becoming increasingly grave. Yet, thirty-five years after the publication of Mill's treatise, when the Attorney-General of Tasmania introduced a Bill to apply the Hare system to city constituencies, he could appeal to no precedent in the Parliamentary experience of English-speaking peoples.

*Weighed in the balance and found wanting!*—The conclusion seems irresistible, but it is not supported by facts. Neither experience nor argument has condemned the Hare system. The objections which have been urged are commonly but the afterthoughts which justify an argument founded in prejudice. Even where they are serious, they are not unanswerable. The solution of the mystery is rather to be found in two facts, of which one is a weakness of human nature, and the other a satire on party government. In the first place, the plan of Mr. Hare involves innovation. In the second place, it is one of those innovations which invite the fate of the inconstant lover: by affecting to be kind to all parties, it secures the allegiance of none. It might also be added that the most serious of the evils which it claims to correct are only beginning to receive adequate recognition; and, finally, that it is opposed to the spirit of parochialism and to the omnipotence of majorities. Each of these facts would admit of illustration and proof. But it is not so much my object to write a history as

Explana-  
tion of its  
unpopu-  
larity.

to explain the general character of the Hare system, and to give an exposition of its application in Tasmania. The Bill of 1896 has become law. While retaining the leading characteristics of Mr. Hare's scheme, it includes several important modifications which possess a more than local interest, and have received a liberal discussion in other Australian colonies. Before attempting their consideration, it will be well to indulge the curiosity of the uninitiated by a statement of the general character and merits of the system, whose defects the Tasmanian modifications are designed to remedy.

General  
object of  
the Hare  
system.

Mr. Hare's great aversion is the determination of constituencies by reference to geographical considerations. In substitution, he proposes that constituencies should be formed by voluntary association. The tie by local contiguity is to be superseded by the bond of kinship—kinship not of blood but of ideas! The great law of progress, defined by Maine as *from status to contract*, already abundantly illustrated in the sphere of private law, is to find a new illustration in the domain of *jus publicum*. Every constituency is to be a partnership “in which there are to be no sleeping partners, much less partners repudiating and protesting against the acts of the rest, and yet unable to extricate themselves. . . . Full scope will be given to every generous sentiment by which men may be drawn together. Devotion to a great principle—regard for an illustrious name—affection for an ancient house—admiration of worthy deeds—attachment to a particular neighbourhood—love of country or of class



—community of feeling—harmony of taste—may all form so many occasions of concord, and create innumerable circles, binding together in society all varieties of rank and station.”<sup>1</sup> A recent writer has expressed the general character of Mr. Hare’s object in even more forcible language. On August 8, 1898, Professor Nanson, writing to the Melbourne *Argus* on the occasion of a Parliamentary debate, expressed himself as follows: “Let us, however, compare the two ways in which we go to work to make a map—geographical or political. It is interesting to see what sort of a geographical map our political method would produce, and also we may derive instruction from seeing what sort of a political map the geographical method would produce. How, then, do we go to work to make our political map? First, let us consider the system of single electorates, so strongly in favour just now; and, further, let us suppose that in no case are there more than two candidates at any electorate. What we do, then, is this. We cut up the country into a number of blocks, in a more or less arbitrary manner. We then elect a member for each block; Conservative, say, when the Conservatives in the block outnumber the Liberals, and Liberal when the Liberals outnumber the Conservatives. Now, supposing these principles applied to the construction of a geographical map, what kind of result would be obtained? First, we divide the country in an arbitrary manner into blocks, then we send a man to each block to measure the number of square miles of land,

<sup>1</sup> Hare, *Representative Government*, pp. 38, 39.

say, and the number of square miles of water. When there is more land than water in the block we put the block down in the map as all land, and when there is more water than land in the block we put it down in the map as all water. It is conceivable, then, that the map may represent the whole country as one vast arid Sahara, and, on the other hand, as being in a state of submersion. A geographer who proceeded on these principles would doubtless soon find his way into Yarra Bend, but any way his map would certainly find its way into the waste-paper basket. Yet these principles are the ones on which our political maps are based, and all our politics are based on the accuracy of our political maps. Truly, it would seem that any method, no matter how rotten, is good enough for politics in electoral matters, provided it has on it the stamp of antiquity." Speaking approximately, there are three possible ways of arranging constituencies. According to one plan, constituencies may be arbitrarily fixed with the express object of depriving the people of fair representation. This is the plan adopted in American party politics under the name of Gerrymander, the general principle of which is to fix boundaries in such a manner as to give an opposing party the opportunity of returning members by uselessly large majorities. A second plan is to arrange constituencies arbitrarily, but without any reference to the views of the voters, and in such a manner as to leave the general results to chance. A third plan—that proposed by Mr. Hare—is to endeavour to achieve a numeri-

cally accurate or proportional representation of the electorate.

By what means is it possible to secure the unanimous constituencies? If the electors are left to their own devices, attempts at the formation of voluntary constituencies may end in a Parliament of party leaders! To avoid such a contingency, it is necessary to establish a quota by dividing the number of voters by the number of seats: whoever obtains the quota is elected, and any excess vote recorded in his favour is given to the next preference of the voter. This simple plan of transferring the vote is also followed in cases where the first preference of the elector has no chance of election. As nothing is to be gained by transferring a vote to a candidate who is already elected or excluded, *next preference* must be understood to mean invariably *next available preference*. Such refinements need not perplex the elector, who is only required to express his judgment by placing the numbers 1, 2, 3, etc., opposite the names of favoured candidates.

General character of the means for attaining Mr. Hare's objects.

However we may differ in estimating the importance of the fact, it must be admitted that such a system secures *a fair representation of the electors*. The Legislature represents the opinion of the country with an approach to ideal fidelity; its members are the representatives of the people, not of the chance majority of arbitrarily formed electorates. It is impossible to doubt the justice of such an arrangement. "The electors are the dispersed inhabitants of an extensive and populous kingdom, possessing know-

*Merits:—*  
(1) A fair representation of the electorate.

ledge and powers of thought infinitely varied and diffused; and to expect that the electoral forms of a rude and illiterate age will gather for the national benefit the fruit of this expanded intelligence is as reasonable as to suppose that the vast manufacturing results of this day could be produced by the primitive loom and the hammer. To succeed in this work it is indispensable that every elector should have the widest field of choice and the most extensive sphere for co-operation.”<sup>1</sup> Thus Mr. Hare. The unfairness of the present system in England has been established in the publications of Sir John Lubbock.<sup>2</sup> In the election of Victorian delegates for the Federal Convention of 1897 the whole of the elected candidates were chosen from the ticket of the stronger party. The injustice is perhaps more glaring where a minority of the electors return a majority of the representatives. In the Canton Ticino the more numerous party, as a result of its concentration in particular districts, found itself in a minority in the Representative Chamber! Owing to the multiplicity of candidates at a recent election in South Australia, 7664 votes elected eight members and 9411 votes were thrown away on defeated candidates. In the election of representatives to the Parliament of New South Wales in June 1898 the Federal vote outnumbered the Government by a majority of 14,839; yet it secured fewer representatives in the New South Wales Legislature.

<sup>1</sup> Hare, *Representative Government*, chap. xvii.

<sup>2</sup> Lubbock, “Representation,” 1890, and “Analyses of English Elections” in *Prop. Rep. Rev.*, Sept. 1895.

There is one aspect of the general question of fairness to all parties which attracts an increasing attention. If we regard the total results of a general election, the Hare system achieves the representation of majorities as much as the representation of minorities. But the fact that the latter object is secured deserves special consideration. It should be superfluous to insist upon the importance of this fact, in spite of the contention, to be dealt with in speaking of the Tasmanian Act, that minority representation consecrates the principle of sectarianism in politics. The national welfare is best secured under conditions which favour sustained conflict. The wise rule of the strong demands the sustained opposition of the weak. When victory puts an end to strife, the days of good government are numbered. In an age of democracy nothing can be more fatal than a tendency towards the political extinction of minorities; yet the reality of this tendency must appear indisputable. When the organisation of labour is less incomplete than at present, the labour vote will be able, and may be disposed, to carry the election in every constituency. Yet it would be an unhappy day for the people if education and intelligence were virtually excluded from representation, or the infinitely varied character of the national life found no correspondence in the national Parliament. No one claims that the minority should rule; but it must be heard. Ultimately all questions must be decided according to the wisdom of the Parliamentary majority; but the decision should be made under conditions which

Representation  
of minorities.

ensure an adequate expression of the opinion of the minority. Herein is the dilemma of the future! Not whether the few or the many shall rule, but whether the sway of the majority shall be absolute or qualified. In proportion as we recognise this fact, in proportion as we see that light is the best policeman within as well as beyond the precincts of our legislatures, we are able to appreciate the importance of achieving the representation of minorities in the constituency and in the nation.

(2) Increased interest in politics.

Fairness of representation constitutes but the first of those merits which a disinterested advocacy may claim for the Hare system. I believe that the system offers a reasonable hope of remedying, or of palliating, the evils of popular indifference. The virtual disfranchisement of the minority in each constituency is an evil of the present system which goes far to condone the indifference of the elector. When the stronger party is well organised the disfranchisement of the weaker party acquires a prospect of disagreeable permanency. Under the Hare method of voting the extinction of the minority ceases. *Every* elector may have a representative in Parliament; *no* elector need be compelled to console himself with the hope, often faint and illusory, that unfair losses in some constituencies will be compensated by unfair gains in others. But in the ordinary electoral system there is a second evil, tending to discourage popular interest, which the Hare system removes. This<sup>1</sup> evil was forcibly illustrated at an election recently held in Tasmania under the old system of voting. Two questions

excited the interest and divided the allegiance of the electors—Tattersall's and the Income Tax. Electors often refused to vote, rather than return a candidate who represented their views on the Income Tax, but regarded the revenue derived from Tattersall's with an exasperating complacency. This was an evil of the system, not a vice in the voter. Under the Hare scheme the elector can plead no such excuse for inaction. The choice is sufficiently liberal to gratify the most fastidious taste. A third reason for connecting the Hare method of voting with a deepening of political interest must always exist while human nature remains unaltered. I allude to the circumstance that the classification of a number of candidates in an order of merit affords some occasion for the display of a laudable vanity. The elaborate discussions which took place in Tasmania at an election held under the Hare system suggested a study no less suggestive than curious. The arguments were not always distinguished by exceptional intelligence or an exceptional integrity, but the interest was phenomenal. "Whom will you put first? whom second?" etc. He is no true friend to liberty who refuses to place a high value upon such discussions.

Mr. Hare claimed for his system that it would lessen the evils, if not remove the causes, of *political corruption*. The arguments by which this claim was supported are not always convincing, but they are invariably respectable. There is one argument which, so far as it goes, is unanswerable. When the Parliamentary candidate is elected by the votes of a

(3) Less  
corruption.

unanimous constituency, instead of by mere majorities in a geographical constituency, the number of supporters necessary for a candidate's return is considerably increased. But this increase means another obstacle in the path of the corrupt aspirant for political honours.

(4) Improved  
Legis-  
lature.

The increase of popular interest in politics and the decline of political corruption are facts which justify a hope of securing *a more virtuous Legislature*. The hope becomes stronger when reflection has weighed those independent grounds by which it is justified. The elector who enjoys a very liberal discretion in the choice of his representative can refuse to vote for an unsatisfactory candidate without incurring the penalty of disfranchisement. The party leaders, unable to rely upon the "safe" constituency, and compelled to fight for every seat, can only bind the allegiance of their followers by the nomination of the acceptable—the wise, the good, or at least the strong. But the freedom of choice affects the character of the Legislature in a manner more direct, and infinitely more effective. It fosters a spirit of independence. A candidate can afford to spurn a dishonest compliance when he relies upon the electors of a whole country. No longer compelled to humour the several sections of a single constituency, he is freed from the disagreeable and demoralising dilemma of ordinary politics. Avoiding alike the mean subterfuge and the fatal avowal, he relies for support upon the diversity of the electorate. The profound importance of this circumstance will be readily admitted by the student



who reflects how powerfully the necessity of conforming to the views of a varied constituency has operated to keep good men out of politics.

This seems the proper place to consider the argument of Bagehot that the Hare system is inconsistent with the independence of Parliament, since a voluntary constituency would be a Church whose tenets would be definite and whose despotism would be inexorable. This argument surely does not go very deep. It is quite true that a self-constituted constituency, united by some definite creed, would expect a more complete compliance in their representative than is expected under ordinary conditions. But the tendency of the self-made constituency must be towards the establishment of closer sympathy between the representative and his electorate; and the independence of a politician is not so much destroyed by subordination to those with whom he is in more or less complete sympathy, as by subordination to those with whom, as is inevitable in the case of a mixed geographical constituency, he is only in very partial sympathy. Bagehot illustrates his argument by reference to the Nonconformist minister, who must preach acceptable doctrine or receive his dismissal. The analogy is somewhat dangerous, since it suggests the case of a minister who is called upon to lead a flock determined by reference to geographical considerations! The Nonconformist minister knows what to expect when he undertakes his post, and the strength of Nonconformity in England does not tend to support the assumption that his position is in-

The Hare system and the Parliamentary character.

compatible with ability or strength of character. On the other hand, what must be the position of the pastor of a geographical church ! It is true he would not be bound in so *many* respects ; but he would be infinitely more liable to find himself bound in ways repugnant to his conscience and to his independence of character. To put the matter very briefly, the difference between the candidate elected under the Hare system and one elected under the usual system is not that the latter is the more independent, but that the former is bound to a constituency whose general sentiments he represents, and not to one whose general sentiments he represents in part but must respect *in toto*.

The Hare  
system and  
the elec-  
torate.

There is one other objection to the Hare system which should be considered before discussing the modifications of the Tasmanian Bill. I refer to the argument of Mr. Shaw Lefevre, that the necessity of securing a strong executive renders it desirable that majorities in the legislature should be stronger than majorities in the country.<sup>1</sup> Now, curiously enough, it can hardly be said that the ordinary system of election attains the object regarded by Mr. Shaw Lefevre as so desirable. The system of the geographical constituency is one which leaves very much to chance ; sometimes the Parliamentary majority is stronger than the national majority ; sometimes it is weaker ; sometimes the Parliamentary majority represents a national minority. But let us suppose that Mr. Shaw Lefevre is right in his assumption.

<sup>1</sup> *Contemporary Review*, 1884

What then? His argument amounts to a contention that the administration should enjoy a fictitious prestige and a fictitious strength. It should be placed in a position which would empower it to pass laws and to carry out a policy upon which the nation had spoken in uncertain and wavering terms. Such a position hardly needs express refutation. It is, indeed, enough to contrast it with the object of the Hare system, which is to achieve a just proportion between ministerial strength and popular support, and only to make a ministry strong when justified by the opinion of the country.

I have spoken of the merits of fair representation, of a new and deeper interest in political matters, of politics made purer and of a Parliament made more worthy. I have also referred to two objections which have been urged against the Hare system. I have done this less out of respect for their force than out of regard for their influence. There are, however, objections more entitled to serious examination; but these may be most conveniently discussed in connection with the modifications adopted by the Tasmanian Act for the purpose of weakening, if not of destroying, their force. In fairness, it must be remarked that the endeavour to meet all possible objection has resulted in some diminution of the merits of the Hare system. This is the inevitable result of compromise, and the reader must exercise his own judgment as to whether he will agree with the conclusion to which I am compelled—that there is a very decided resultant of gain.

Further  
objections:  
the Tas-  
manian  
Act.

Tasmanian  
modifica-  
tions :  
(1) Six-  
membered  
districts .  
(2) an an-  
swer to the  
argument  
from com-  
plexity.

Of the modifications to which allusion is made, the first has been generally associated with the name of Sir John Lubbock. It must be regarded as a complete answer to the objection, so commonly urged and so difficult to impugn, that the Hare system is too complicated to be practicable. The student of Mr. Hare's treatise is often tempted to regard the task of the returning officer as beyond the reach of mortals. In the unregulated application of the methods to the return of a whole department of the Legislature, it is difficult to see how the formation of voluntary constituencies could be effected without incurring all the evils of "a constituency-making trade." In the Tasmanian Bill, the method has been confined to city constituencies. These return six or four members. Though the constituencies might be enlarged with advantage, the present arrangement has one obvious merit; the argument from complexity only remains as the frail support of those whose prejudice or whose indifference has rendered them impervious to reason. The simplicity, both of the process of voting and of the general principle of the Act, is clearly shown by the following instructions, which were suggested by that distinguished advocate of proportional representation, Miss Spence of Adelaide :—

Instruc-  
tions to  
voters.

1. There are here twelve candidates, six to be elected.
2. Vote by numbering candidates in the order of your choice, that is to say : Place 1 to the left of the candidate you like best. Place 2 to the left of the name of the candidate you like second best. Place 3 to the left of the name of the candidate you like next best, and so on.

3. Vote for not less than three names.
4. The same number must not be placed against more than one name.
5. The numbers must be placed opposite the names.

*Note.*—Your vote will be used for one candidate according to your preference. If the candidate you like most, either—

- (a) Does not need your vote (has enough votes to elect him without your vote), or
- (b) Cannot use your vote (has so few votes that he cannot possibly be elected), your vote will be transferred to the candidate you like next best (as shown by your numbers) and USED—not WASTED.

The work of the returning officer, while less simple than that of the elector, demands no exceptional qualifications. He need display the industry of an average clerk—scarcely more !

The re-  
turning  
officer.

The limitation of the Hare system to districts returning a small number of members has the additional merit of removing objections based on the dangers of faddism. It is difficult to believe that sincerely democratic principles can allow electors to be excluded from representation, simply because they have the misfortune to advocate opinions which the great majority regard with aversion. Yet the cause of proportional representation has often suffered on this account. Whatever importance must be attached to the objection, it does not apply to that modification of the Hare system which has been adopted in Tasmania. In a constituency returning only six members, the electors who are strong enough to secure a representative may claim to be exempt from the

(b) An answer to the imputation of faddism.

imputation of singularity. The minorities which the Act encourages must always be respectable.

Political  
sectarian-  
ism.

The objection to the Hare system, which derives its force from an alleged tendency to encourage the spirit of political faddism, has a less extreme and far more dangerous form which is not so completely met by the modifications of the Tasmanian Act. I allude to Bagehot's argument that the representation of minorities would consecrate the principle of sectarianism in politics. "Every chapel," he wrote, "would be an office for vote-transferring before the plan had been known three months. The Church would be much slower in learning it, and much less handy in using it; but would learn. At present the Dissenters are a most energetic and valuable component of the Liberal party; but under the voluntary plan they would not be a component, they would be a separate independent element. We now propose to group boroughs; but then they would combine chapels. There would be a member of the Baptist congregation of Tavistock, cum Totnes, cum etc., etc. The full force of this cannot be appreciated except by referring to the former proof that the mass of a Parliament ought to be men of moderate sentiments, or they will elect an immoderate Ministry, and enact violent laws. But upon the plan suggested, the House would be made up of party politicians selected by a party committee, chained to that committee and pledged to party violence, and of characteristic, and therefore immoderate representatives, for every 'ism' in all England. Instead of a deliberate

assembly of moderate and judicious men, we should have a various compound of all sorts of violence.”<sup>1</sup>

I have stated Bagehot's objection in its full force because of its great importance. If its truth were conceded, the citizen might be tempted to condemn the Hare system for that reason alone. In the first place, let us suppose the argument to be true. It really implies that the people, if they had the opportunity, would prefer to be represented by extremists rather than by moderate men. If this were the case, the democrat might argue that the voters' preference should be sustained, and that time and the popular sense would soon apply the necessary correctives. But I do not think it is necessary to rely upon this defence, for I question the truth of Bagehot's argument. In the first place, I am not aware that the experience of the several countries where proportional representation has been tried, tends to give any support to Bagehot's fears. In the second place, it must be remembered that a wide choice of candidates means a choice between those who express approved views, but are extremists, and those who, while “sound” on some one or other vital point, are known to be generally moderate and respected. Which class of candidates would be likely to secure most first preferences? I have sufficient confidence in the popular character to answer this question favourably. I cannot believe that the reputation of our race for sound common sense is so far misplaced, that a provision for the faithful representation of the people would

<sup>1</sup> Bagehot, *The English Constitution*, pp. 155, 156.

end in an immoderate Legislature! For, although the Hare system is not perfect, it does undoubtedly afford an opportunity for an absolutely *fair representation*. Of course the opportunity would be abused by some; but to argue that the abuse would be general, or if at all general, would long continue, is to argue that the people would prove themselves unworthy of the opportunity offered. The advocate of the Hare system, or indeed of any method of proportional representation, believes that the opportunity should be given. The Tasmanian modification in favour of six-membered constituencies affords an occasion for making the experiment in a tentative manner, and under conditions which reduce the possibilities of evil to a minimum.

(2) Three  
candidates  
to be  
placed

A perusal of the instructions to Tasmanian voters, already stated, suggests a further peculiarity in the Tasmanian Act. The industry of the elector must be equal to the task of placing in an order of merit not less than three candidates. The number may be raised when experience of the system forbids the excuse of novelty. The elector whose capacity or whose interest is unequal to the nomination of several candidates fails to influence the election if those for whom he votes have a quota without his assistance; or, indeed, if their need be so extreme that his support still leaves them in a hopeless minority. The elector who pleads a fastidious taste as an excuse for a limited selection must remember that it is possible to classify candidates in an order of aversion as well as in an order of preference. An entirely



different line of argument was taken by one opponent of the Tasmanian Bill. "Compel an elector to vote for three candidates, and it will often end in his choosing as second and third preferences candidates who cannot be raised up as rivals to his first preference. This must prove fatal to the success of the Bill." The statement is only quoted as illustrating the character of the opposition to which the Bill was occasionally subjected. It would be difficult to suggest a more felicitous illustration of unreasoning aversion. Second and third preferences can never be employed for the purposes of defeating a first preference: until the fate of the latter has been determined, no reference to the former is possible.

The distribution of the surplus votes is a subject of great importance, and one which remains for consideration. The method adopted in the Tasmanian Bill constitutes its chief claim to the consideration of home and foreign statesmen. One may only judge of the value of the means which have been employed by appreciating the difficulties which have been overcome. If a candidate obtain 2000 votes when the quota is fixed at 1000, 1000 ballot papers are available for distribution among the candidates whose names are marked 2. The result of the distribution varies according to the principle which determines the appropriation of the papers of the favoured candidate. If an analysis of second preferences yield 1000 for Y and a like number for Z, it would lie within the power of the returning officer to effect the election of whichever candidate he preferred. This element

(3) Sur-  
pluses.

of chance has been declared "the only really formidable obstacle to the practical application of Mr. Hare's scheme."<sup>1</sup> How has the obstacle been overcome in the Tasmanian Act? Mr. Clark, to whom the honour of the Act belongs, has suggested certain rules at once simple and just. Let us take the least difficult case. As a result of a first count, X has a surplus; how is it to be distributed? Not indiscriminately, nor according to the caprice of the returning officer; but in a proportion determined by the second preferences on the whole of X's papers (or, as was at first suggested, on the whole of the electorate). For the purposes of this calculation, a candidate marked 3 is regarded as a second preference if the candidate marked 2 has obtained his quota before the distribution in question has been commenced. In the case already suggested, Y and Z alike secure 500 votes out of X's surplus of 1000. The plan involves a slight departure from the scheme of Mr. Hare, who proposed to confine the influence of the elector to a single transferable vote. In the case we have considered, X's constituents not only return their chosen candidate, but also have a voice in the distribution of his surplus votes. Such a voice might almost be described as the fraction of a vote. While it is difficult to see any serious objection to this departure, its merit is clear. For all practical purposes, the element of chance ceases to exist.

Later sur-  
pluses.

So far, we have only considered the case of a surplus arising from the first count, and without the

<sup>1</sup> *Essays and Lectures*, H. and M. G. Fawcett, 1872.

aid of votes transferred from other candidates. After every surplus of this kind has been distributed, it may be found that fresh surpluses have been created. How are these to be distributed? We have supposed a case in which, as a result of the distribution of X's surplus, 500 voting-papers go to Y. If Y only requires 400 to complete his quota, what is to be done with the excess? Is the returning officer to take the 100 papers which chance to be on the top of Y's lot, either before or after the whole 500 papers have been shuffled, and distribute them according to third preferences? To such a course there is a very obvious objection where close contests are possible. Accordingly, the Act, in pursuance of a principle already illustrated, requires the distribution of the 100 excess votes in a proportion determined by the third preferences on the whole of the papers previously transferred to him. Thus, if on 300 of the XY papers M ranks as a third preference, and on 200 of the XY papers N ranks as a third preference, 60 of the surplus of 100 go to M and the remainder to N.

If, as the result of the foregoing counts, an insufficient number of candidates have obtained a quota, the candidate who has secured the lowest number of votes is excluded from the poll. His ballot papers are then transferred to the candidates whom the electors have chosen in substitution. Whenever the next preference of the voter is a candidate already elected, the name is of course cancelled, and the papers are passed on to a lower

Examina-  
tion of  
candidates.

preference. If, as a result of this distribution, any candidate gain a surplus, it is to be redistributed in a proportion determined by the next preferences on the whole of the ballot papers previously transferred to him. The process of elimination, occasionally alternated with the distribution of a surplus, is continued until the number of candidates does not exceed the number of vacancies.

The Hobart  
election.

The principles underlying the Tasmanian Electoral Act have been explained with studious brevity. The courtesy of the reader may excuse, if his curiosity does not invite, an account of the election held under its provisions. It will be sufficient to speak of the district of Hobart. Consistently with the anticipations of the Legislature, the occasion was honoured by a display of unusual interest; for ten hours the crowd barred the approaches to the polling booth. The proceedings were enlivened by the usual humours of the election day; such phrases as "Rabid on the Hare system" suggested alluring opportunities for distinction. The mode of distributing the surplus afforded endless occasion for discussion and misunderstanding, and for that humour which, as it was unconscious, we may perhaps impute to genius. "It all comes to this," said one elector: "when Clark has all the votes he needs, any other vote for him goes to the next man on the list who needs it most." In one dialogue I must confess a peculiar interest: "The practical common-sense men tell me the old system is the best." "But I expect the practical common-sense men of whom you speak do not understand the Hare system."

"That's so; they said as much. But still they are practical common-sense men, and that is sufficient for me." Such remarks illustrate, with admirable felicity, the character of the most serious opposition which the advocate of the Hare system must encounter. They further illustrate the folly of efforts to instruct the electors in the minutiae of a Bill with whose general principles they are unfamiliar. As Mr. Hare remarked in his treatise, a passenger is satisfied to travel by the express, although he knows nothing of the details of the steam-engine. The justice of the parallel is admirable, and it is a matter for regret that more attention had not been paid to it by Tasmanian leaders. Instead of instruction in the broad principles of proportional representation, its general fairness and distinctive merits, the elector had been perplexed by the processes involved in the distribution of a surplus. For this reason, among others, the list of informal votes was large. Even the prophets fell. A candidate for Parliamentary honours, deeply versed in the lore of proportional distribution, rendered his vote informal by scoring out the names of opposing candidates. His success at the election may be taken to prove the indulgence of fate.

At 6.30 P.M., soon after the prescribed time for closing the poll, the process of counting the votes began. The ballot boxes were brought to the returning officer. The ballot papers were removed, unfolded, and taken to the scrutineers, who began to sort them for the first count. Attached to each of the scrutineers' tables there was a box with several

The counting of the votes.

compartments—one for each candidate, one for doubtful, and one for invalid papers. The work of the scrutineers consisted in taking the papers one by one, calling out the name of the candidate marked 1, and placing the papers in the compartments appropriated to the respective candidates. Two clerks registered the vote on their recording sheets. Finally, these recording sheets were tabulated and handed to Mr. Johnston, the Government statistician and presiding genius of the election. When the various numbers had been totalled, the result of the first or primary votes became known. The totals of Mr. Johnston were checked by a returning officer, who had previously settled the destination of doubtful papers. It was found that the total number of valid votes was 2746. As there were six seats, the quota was fixed at 457. Only one of the candidates, Sir Philip Fysh, obtained a quota as the result of the first count. As the primary votes of this candidate amounted to 501, there was a surplus of 44 for distribution among remaining candidates. After the whole 501 ballot papers had been given to the scrutineers for the purpose of estimating second preferences, it was found that Bradley claimed 41, Clark 304, Cox 2, Crisp 38, Dillon 9, Fulton 1, Hiddlestone 30, Mulcahy 42, Page 19, Paton 4, and St. Hill 10. A sum in simple proportion followed. If Bradley be entitled to 41 votes out of 501, to how many is he entitled out of a surplus of 44?  $\frac{44 \times 41}{501} = 3\frac{3}{5}$ , or, getting rid of the fraction, 4. The returning officer had then to take

from Fysh's box any 4 ballot papers on which Bradley was marked 2, and to place them in Bradley's box. In this manner, but by the aid of Fuller's spiral slide rule, the whole surplus of 44 votes was instantly distributed among the unelected candidates. This completed the second count. Had any candidate secured a surplus as the result of this count, that surplus must have been distributed in a proportion determined by the third preferences on the whole of the ballot papers he had received from Sir Philip Fysh. As a matter of fact, no additional candidate had secured a quota, and it remained to begin the process of excluding lowest candidates. The first victim was Mr. Cox, whose 34 votes were now distributed among second preferences. Where Sir Philip Fysh was marked 2, the candidate marked 3 ranked as a second preference. No candidate gained a surplus as a result of this count. Mr. Fulton, who was lowest on the poll at this stage, was then excluded, and his 122 papers were distributed among the candidates whose fate yet remained uncertain. The result of this distribution was to raise Mr. Bradley's total to 483. As this involved a surplus of 26, that surplus had to be distributed in a proportion determined by reference to the next preferences on the whole votes transferred to Bradley from other candidates—*i.e.* from Fysh, Cox, or Fulton. The process of elimination, varied by the occasional distribution of a surplus, was continued until only six candidates remained; these were then declared elected. It will be seen from the accompanying table that only four were successful in obtaining a quota.

# HOBERT ELECTION.—ANALYSIS OF VOTING.

| Count. | Total votes distributed. | Bradley.                | Clark.                  | Cox.         | Cresp.         | Dillon     | Fulton     | Fysh                    | Hiddlestone.  | Mulcahy                 | Page.          | Paton         | St Hill    | Exhaust Papers | Particulars of Distribution. |
|--------|--------------------------|-------------------------|-------------------------|--------------|----------------|------------|------------|-------------------------|---------------|-------------------------|----------------|---------------|------------|----------------|------------------------------|
| 1st    | 2746                     | 448                     | 393                     | 34           | 202            | 143        | 118        | 501<br>Elected<br>(-44) | 137           | 264                     | 235            | 140           | 131        | —              | First count.                 |
| 2nd    | 44                       | 4                       | 27                      | —            | 3              | 1          | —          | *                       | 2             | 4                       | 2              | —             | 1          | —              | Fysh's surplus.              |
| 3rd    | 34                       | 3                       | 5                       | (-34)<br>Out | 13             | 2          | 4          | *                       | 1             | 1                       | 3              | —             | 2          | —              | Lowest out (Cox).            |
| 4th    | 122                      | 28                      | 18                      | —            | 12             | 10         | Out        | *                       | 11            | 13                      | 10             | 12            | 8          | —              | Next lowest out (Fulton).    |
| 5th    | 27                       | 483<br>Elected<br>(-26) | 4                       | —            | 4              | 2          | —          | *                       | 3             | 2                       | 2              | 7             | 3          | —              | Bradley's surplus.           |
| 6th    | 145                      | —                       | 29                      | —            | 16             | 13         | —          | *                       | 15            | 21                      | 14             | 21            | (-145)     | 16             | Lowest out (St. Hill).       |
| 7th    | 19                       | *                       | 476<br>Elected<br>(-19) | —            | 5              | —          | —          | *                       | 2             | 2                       | 2              | 1             | Out        | 7              | Clark's surplus.             |
| 8th    | 171                      | *                       | *                       | —            | 53             | 6          | —          | *                       | (-171)<br>Out | 82                      | 18             | 8             | —          | 4              | Lowest out (Hiddlestone).    |
| 9th    | 177                      | *                       | *                       | —            | 36             | (-177)     | —          | *                       | —             | 51                      | 28             | 32            | —          | 0              | Next lowest out (Dillon).    |
| 10th   | 221                      | *                       | *                       | —            | 23             | —          | —          | *                       | —             | 53                      | 24             | (-221)<br>Out | —          | 121            | " " (Paton).                 |
| 11th   | 36                       | *                       | —                       | —            | 5              | —          | —          | —                       | —             | 493<br>Elected<br>(-36) | 3              | —             | —          | 28             | Mulcahy's surplus.           |
| Total, | 3742                     | 483<br>Elected<br>*     | 476<br>Elected<br>*     | 34<br>Out    | 372<br>Elected | 177<br>Out | 122<br>Out | 501<br>Elected<br>*     | 171<br>Out    | 493<br>Elected<br>*     | 341<br>Elected | 221<br>Out    | 145<br>Out | 20             |                              |

\* Obtained quota.



It should be interesting to compare with the foregoing a table for the compilation of which I am indebted to the courtesy of the Government statistician. The table shows how different would have been the results if the cumulative method had been adopted.

| Candidates.                    | Preference.<br>1 | Preference.<br>2 | Preference.<br>3 | Cumulative Results of Preferences. |                      |
|--------------------------------|------------------|------------------|------------------|------------------------------------|----------------------|
|                                |                  |                  |                  | One and Two.                       | One, Two, and Three. |
|                                | No.              | No.              | No.              |                                    |                      |
| Clark <sup>1 2</sup> . . . .   | 393              | 592 <sup>3</sup> | 401 <sup>3</sup> | 985 <sup>3</sup>                   | 1386 <sup>3</sup>    |
| Fysh <sup>1 2</sup> . . . .    | 501 <sup>3</sup> | 427              | 314              | 928                                | 1242                 |
| Bradley <sup>1 2</sup> . . . . | 448              | 344              | 321              | 792                                | 1113                 |
| Mulcahy <sup>1 2</sup> . . . . | 264              | 231              | 396              | 495                                | 891                  |
| Crisp <sup>1</sup> . . . .     | 202              | 218              | 270              | 420                                | 690                  |
| Hiddlestone . . . .            | 137              | 251              | 269              | 388                                | 657                  |
| Page <sup>1</sup> . . . .      | 235              | 167              | 169              | 402                                | 571                  |
| Dillon . . . .                 | 143              | 158              | 156              | 301                                | 457                  |
| St. Hill . . . .               | 131              | 101              | 149              | 232                                | 381                  |
| Fulton . . . .                 | 118              | 121              | 130              | 239                                | 369                  |
| Paton . . . .                  | 140              | 90               | 129              | 230                                | 359                  |
| Cox . . . .                    | 34               | 46               | 42               | 80                                 | 122                  |
| All { Gross total . .          | 2746             | 2746             | 2746             | 5492                               | 8238                 |
| { Legally effective            | 2746             | 724              | 66               | 3470                               | 3536                 |

Quota—457.

<sup>1</sup> Elected.

<sup>2</sup> Obtained quota.

<sup>3</sup> Highest in order of general favour.

The results of the election were not regarded with universal satisfaction. But the invectives of unsuccessful candidates were repeated with a very diminished vehemence by their sympathisers, because almost every voter had secured a representative. Some dissatisfaction was expressed at the order in which fortunate candidates appeared on the declaration of

Review of  
the experi-  
ment.

the poll. Indeed, one of the chief lessons of the election was the danger of voters trusting too much to others for the return of popular candidates. It will take several elections before this lesson has been duly learnt. But by far the most general cause of complaint arose out of a circumstance which really reflected the greatest credit on the experiment. Five-sixths of the electorate tried to secure the whole of the six members, but failed to return more than five, the exact number to which they were entitled. "The system is too—fair," remarked a legislator. Still, regarded as a whole, the results of the experiment were very generally regarded with satisfaction. Although one ingenious elector had chosen the six rejected candidates, there were few so unfortunate as not to secure a return of one of their preferences. Where such a failure occurred, the fault rested with the elector in not voting for more candidates. On a future occasion electors will probably remember this; and if they soon exhaust their preferences, will continue the classification on the principle of least dislike. The number of "exhaust papers" may seem serious, but it was not. In many cases such papers were useless because one or other of the candidates, whose names they bore, was elected without their assistance. The number of informal votes was sufficiently large to excite the criticism of the censorious; yet it was not larger than is usual on the occasion of a change in the mode of voting; indeed the percentage was much lower than at the recent election for the Federal Convention. In the city of Hobart

the informal votes amounted to 104. Fifty-two had been guilty of extra marking, especially of scoring out the names of rejected candidates; twenty had marked each of their chosen candidates 1, instead of 1, 2, 3, etc.; sixteen had failed to mark at least three candidates; four had omitted to observe a proper sequence in their numbers; three had written the figures between the names; three were illegible; two had contributed their signatures; two had marked all their candidates 2 instead of 1, 2, 3; one had given his numbers in writing; and one had scrawled over the whole of his paper, apparently to express an abhorrence of the system.

Perhaps the most striking feature of the whole election was the display of independence on the part of the candidates. Views were expressed with a confidence which must have imperilled all chances of return under the older system. The Honourable the Treasurer's bold advocacy of the income-tax, and the success which rewarded his efforts, were a most striking object lesson which is not likely to be forgotten.

Parliamentary independence.

If we regard the Act itself I am not aware that experience has exposed its defects. Whatever objections a captious criticism may discover, there is perhaps but one which requires serious attention. Though the subject may appear very involved, it is desirable that a paragraph should be devoted to its consideration. If X receive 2000 primary votes and the quota be 1000, the resulting surplus is distributed in a proportion determined by reference to second preferences on the whole of X's 2000 votes. Under

Question of surplus voting.

such a mode of distribution nothing is left to chance or to the discretion of the returning officer. But let us go a step further: let us suppose that Y has 800 primary votes, and that he receives 600 from X's surplus. In that case he obtains his quota and 400 excess votes. How are these excess votes to be distributed? Several modes suggest themselves. The returning officer may take the 400 ballot papers from the top of Y's box and pass them on to next preferences. He may do this after having first shuffled the whole of Y's papers: or, again, he may exercise his own sweet will upon them. The objection to each of these courses is clear. But if the surplus of 400 is to be distributed according to a proportion, by reference to what ballot papers is the proportion to be determined? The Act, apparently with the intention of simplifying the work of the returning officer, answers, "By reference to the 600 papers transferred from X to Y." It will be at once seen that this introduces a slight element of chance. We know that if Y gained 600 of X's surplus of 1000, he must have been marked 2 on six-tenths of X's total number of primary votes.  $2000 \times \frac{6}{10} = 1200$ . The actual 600 papers transferred from X to Y were to be chosen at random from the whole of the 1200 papers on which Y was marked 2. The proportion among the third votes of one chance selection from this 1200 might be very different from the proportion among the third votes of another chance selection. If the returning officer choose "to take a hand," the variations may be increased. All such objections

may be avoided by distributing Y's surplus of 400 in a proportion determined by reference to the whole of the 1200 papers, *i.e.* the whole of the XY papers. It might save time if the returning officer, in transferring the 600 papers which constituted Y's share of X's surplus, were to preserve the same proportion of third votes on transferred papers as existed on the whole 1200 XY papers. In the distribution of Y's surplus of 600 it would then be sufficient to make a calculation on the basis of the papers transferred from X to Y. It may be interesting to note that the distribution of Y's surplus might also be determined by reference (1) to the third preferences on the whole of X's original papers; (2) to the third preferences on the total number of X's original papers taken together with the second votes on the total number of Y's original papers; (3) to the third preferences on the whole electorate. The evils of complexity form an answer to the arguments by which these alternatives can be supported. Any proposal to effect a distribution by reference to third preferences on the whole electorate is open to an additional objection: it would give an undue influence to electors voting according to prescribed ticket. The objection would apply with peculiar force to any proposal to distribute surpluses arising as a *result of the first count* in a proportion determined by reference to the second preferences on the whole electorate.

In conclusion, I may be allowed to suggest an examination of the question whether the advocate of the Hare system is open to the reproach of innova-

Novelty  
of Hare  
system.

tion. Professor Freeman has remarked how often those great reforms which mark the progress of our race have involved a return to the traditions, institutions, or ideas of an earlier time. The barons who wrung from a reluctant monarch the great charter of our liberties, only sought to record and to secure the acknowledged birthrights of Englishmen. The Parliament of De Montfort was a device for restoring the freedom of the Teuton. For the primitive assembly of the tribe there was substituted the representative Parliament of a nation : for appearance in person, the new conditions required an appearance through chosen deputies. Yet the great principle of the right of the people to share in the work of government underlay both institutions. Thus it happened that the privileges which English forefathers had enjoyed in the forests of ancient Germany, and had sacrificed in the process of migration and national consolidation, were to be regained in the great and painful crises of a later century.

Representation  
in the  
thirteenth  
century.

If we consider the characteristics of the Hare system in connection with the Parliament of the thirteenth century, I believe we shall arrive at a startling conclusion. Mr. Hare sought to introduce an organic element into our system of representation. The new constituencies were designed to be united by allegiance to one object, to be animated by one spirit. I believe that here again in the history of our race we may discover under the semblance of innovation the reality of an ancient practice. This is no place to justify such a generalisation by an adequate induction from the facts of mediæval history.

Yet the interest and the importance of the inquiry may justify an illustration of its meaning. In the first place, the mediæval Parliament represented the estates of the realm—the clergy, the baronage, and the commons. These were not arbitrary divisions of the state, but organic parts of the nation. The means by which they acquired the reality and the consciousness of internal cohesion form one of the most engrossing chapters in the national annals. The facts of history lend no encouragement to the suggestion of a residuary class in the estate of the commons. The third estate represented the alliance of the communities of the shires with the communities of the towns, and was the result of causes among which we may distinguish the appreciation of common dangers, the inducements of royal policy, and the similarity of the processes employed in the exercise of political rights.

Starting from the established fact that the mediæval Parliament was an assembly of estates, we have yet to inquire the character of the constituencies of the third estate. Were they, too, organic? It is difficult not to answer this question in the affirmative. The representatives of the commons were the deputies of the shires and the towns. Each shire was a unit of the nation bound together by its common court, its common judicial and administrative organisation. The county was an organised body of men, a *communitas*, almost a kingdom in miniature! If we turn to ~~the~~ towns of the Middle Ages, despite the infinite variety of their customs, the reality of their organic character seems indisputable. Nor should we be

altogether unprepared for this conclusion. When we remember that they were compelled to struggle for their charters, their liberties, and often for their existence, against the attacks of neighbouring barons and the tyranny of a ubiquitous monarch; that, as yet, the centralising influences of the railway and the press were unknown; that, as yet, geographical constituencies were not divided into hostile camps by the contests of national parties—when we remember these facts, we are prepared to find in the town of the Middle Ages a community of life, thought and feeling unattainable under the complex conditions of modern society. Nor are we disappointed. The superiority of the old over the new in this respect is well expressed in the writings of a brilliant essayist. “Each town,” writes Frederic Harrison, in effect “had its own patron saint, its own special church, its own feudal patron, its corporate life, its own privileges, traditions and emblems. On the other hand, the modern city is almost bereft of any religious, patriotic or artistic character as a whole. There is much public spirit, in certain parts a love of beauty, taste and cultivation of a special kind. But it is not embodied in the city; it is not associated with the city; it does not radiate from the city. A typical industrial city of modern times has no founder, no traditional heroes, no patrons or saints, no emblem, no history, no definite circuit. It is ever changing, loose in organisation, casual in form.”<sup>1</sup>

If we attach any importance to the foregoing

<sup>1</sup> *The Meaning of History*, p. 250.



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facts, it must affect our attitude towards the reproach of innovation. The methods may be new, but the idea is ancient. It is no longer possible to combine the organic principle with the geographical constituency. Which are we to retain? Ordinary usage answers this question in one way, and Mr. Hare in another. I believe that there are few more important questions of to-day than this, and that few deserve a more immediate attention on the part of statesmen and thinkers.

## CHAPTER IV

### THE REFERENDUM

The Hare  
system and  
the refer-  
endum.

IN the preceding chapter I have referred to one of the suggested plans for solving the problem of popular expression. But although the principles underlying the Hare system have received a liberal application in the politics of several European countries, and although the system itself has been adopted by Denmark, by Tasmania, and by certain municipalities of the United States, the proposal to introduce an organic element into the methods of representation has excited less general attention than a proposal which implies an ultimate application of democratic principle. I allude to the referendum, an expedient which may be regarded either as a phase in the long process of social and political enfranchisement, or as an attempt to remedy the evils of representative government by substituting the machinery of direct democracy. For although, in actual application, the referendum has assumed various forms, its principle is unvarying: in proportion to the realisation of that principle the judgment of the Legislature must be superseded by the judgment of

the constituencies; democracy ceases to be representative and becomes direct. I propose to discuss the merits of this general principle. The questions which arise would seem to admit of treatment in the following order: What practical evils does its application overcome? Can these evils be met by other means? If not, what objections may be urged against the principle in the light of precedent or reason? Finally, how far are the general conclusions which suggest themselves affected by special circumstances?

A discussion of any new political reform naturally begins with an enumeration of the evils which the reform affects to remedy. In the case of the referendum these evils have been already mentioned, and owe their origin to the inadequacy of the existing means for expressing the popular will. Certain parts of the machinery of our constitutions may be regarded as so many ingenious devices for securing that the people shall be flattered with the agreeable illusion of absolute power, while practically denied its exercise. One is reminded of the story of the American lawyer. When he was young he lost many cases that he should have won; when he was old he won many cases that he should have lost; "so in the long run justice was done." Under the present system of representation, momentary expressions of popular feeling sometimes receive less attention than they deserve, sometimes more. Justice is *not* done under such an arrangement. Nor should it be forgotten that an important justification of representative

Inadequacy of present constitutional machinery.

government is the function which it serves in anticipating popular judgments. The history of constitutional reform in the present century is a remarkable illustration of the reality of this justification in the past. Though in the present its importance is declining, it is still one of the many aspects of the subject which deserve attention. If, therefore, we wish to test the value of the existing system of checks and balances, we have to consider such questions as the following: Are the restraints upon the popular will so strong as to impose insurmountable obstacles to reform? When the Government acts without popular support or in reliance upon momentary majorities, does later experience tend to justify or condemn its action? Do the representative institutions perform their functions in guiding and informing the popular intelligence? Finally, does the constitution clearly recognise that the definition of desirable restraint must be determined by reference to the character of suggested legislation, as well as by reference to the character of popular opinion?

Constitutional laws

Such questions deserve the closest attention and suggest considerations by no means agreeable to the present form of representative government. When we turn our attention to the present machinery for giving effect to the popular will, we discern certain very serious defects for which the referendum would seem to be a most efficient corrective. An example may be found in the failure to distinguish between the more and the less important changes in legislation. Nothing can be clearer than the desirability of an

increased restraint in the case of changes known to be of a far-reaching character. Facts may justify the suppression of juvenile smoking; they may also justify an extension of the franchise. Common sense, forcibly supported by experience, dictates the expediency of requiring a more deliberate judgment in the one case than in the other. As Dicey remarks, it would be easier to abolish the House of Lords to-day than to have disfranchised the borough of Old Sarum a century ago. The referendum, in the modified form of a reference to the people from both Houses, would naturally be confined to specified classes of legislation of the more important character.

The dominance of party is another of the circumstances opposed to popular supremacy. The party is not the nation; its programme often finds little sincere support among its own members. True, effectual penalties wait upon unpopular proposals. But the unpopularity must be general or intense; failing this, much may be done in the way of legislation which enjoys neither a popular sanction nor a reasonable prospect of obtaining it. A Cabinet engaged in deciding the date when its policy shall be submitted to the country, neglects no adventitious aid to popular support. The date for a general election is fixed with a prudent regard to the desirability of prejudicing the opposing party. A want of tact on the part of the leader of the Opposition, a false step or an unfortunate speech, possibly some happy conquest of a Cabinet Minister enhancing the momentary popularity of the party in power—

Party intrigue and the popular will.

nothing must be lost if the country is to be saved, i.e. if the party is to remain in power. If aught were wanting to impart a stimulus to ingenuity, it must be found in the circumstances of an Opposition ardently pursuing similar tactics. But even when the Cabinet has fixed upon a convenient time for holding an election, it has yet to discuss the party platform. What a mosaic this may be! A violent or active minority, even a single Minister, may succeed in introducing into it elements which have no approval from the majority of the Cabinet. There may be thrust upon the country a comparatively new measure, of which the majority of the party and of its leaders do not approve, but which is submitted to the nation associated with the prestige of that party, and supported by its adherents under penalties sufficiently effectual to secure their adherence. Such things may be defensible; but they seriously interfere with the true expression of the popular will. The referendum, in the opinion of Professor Dicey, places parties and factions under the control of the national majority.

Single  
member  
districts.  
(1) Minority  
unrepresented.

Quite apart from the rigours of party discipline, we have to consider a class of evils which result from certain inadequacies of the representative system. Under the present mode of conducting elections, the minority of a constituency are unrepresented; and we have already seen that experience proves the futility of relying upon chance to secure fairness throughout the country. The referendum would test the numerical strength of

parties with an approach to ideal accuracy. Again, the system of representation in single districts is responsible for a far more extensive introduction of the personal elements into an election than is desirable, or even than is required by the conditions of representative government. If the people are to exercise their political rights through chosen deputies, it is inevitable that questions of the expediency of measures must often be confused with considerations of the personal character of the candidate; under the present system, where the electors' choice is confined to two or three candidates, the confusion assumes a most serious character. While there would be a far less occasion for complaint under a system which offered a wider choice of candidates, a complete dissociation of men and measures can only be obtained by the referendum.

(2) Personal element.

To the system of elections in single districts we may also trace an evil which is more serious than either of those just mentioned. I allude to the confusion of issues which so obscures the results of an election. The voter is perplexed; the popular verdict is equivocal. In the composition of an election speech, the candidate for Parliamentary honours undertakes a task which offers a sufficient scope for the most aspiring ingenuity. The party programme is the first element of the dish by which the palate of the voter is to be tempted. There are to be added the constituents upon which the electors entertain pronounced opinions. The doubtful elements follow; in the admixture of these, the

(3) Confusion of issues.

candidate must display the utmost tact, or the whole dish may be rejected. He must strive to secure at least a qualified verdict from the elector. "I did not like the dish; I did not like the dressing. But the aroma was gratifying. On the whole, the fare seemed less indigestible than across the street. So I swallowed it." Such a mode of conducting elections can hardly be said to give effect to the expression of popular opinion. The referendum would secure a popular verdict on a single issue.

Reputa-  
tion of  
Upper  
Houses.

The reputed class character of Upper Houses is another evil which impairs the present means for expressing the popular will. I do not ask if the reputation is deserved; or whether, if deserved, it is inevitable. I allude to the influence of the fact on occasions where disputes arise between the two Houses. A measure which has found little direct favour with the people, but which has been endorsed by their representatives in the Lower House, may suddenly acquire widespread popularity from the mere fact of its identification with the war-cry of popular rights. It is unfortunate when the institutions of a country so invite a display of class feeling; when radicalism is approved, not for what it is, but for what it is reputed to be. If the Upper House were allowed to appeal to the country by means of the referendum, the direct contact with the electorate, if it did not inspire a popular confidence, should at least prove an efficient corrective of present prejudices.

Deadlocks.

In Australian politics, the referendum has re-



ceived far more support from those who have regarded differences of opinion between the two branches of the Legislature from the point of view of the Lower House. In practice the term "dead-lock" appears to be confined to cases where the Lower House, though very anxious to have its own way, cannot succeed in doing so. A person unacquainted with the nature of Australian Upper Houses might have argued fatal results from a tendency to regard so important a constitutional check as a serious evil; but there can be no doubt of the existence of serious justification for the tendency. Not only have Australian Upper Houses been at times unduly conservative, but they have frequently been able, owing to the confusion of issues and the admixture of the personal element in ordinary elections, to shield themselves from popular censure by denying the reality of the popular verdict. In the case where both Houses are elective, the hostility of the Lower House has been stimulated by dissolutions not shared by the Upper House, though enforced by its opposition. In 1894, a Victorian Royal Commission recommended that a Bill, which was passed in two consecutive sessions by the Legislative Assembly and rejected by the Legislative Council, should be submitted for acceptance or rejection to the voters on the roll. The recommendation was submitted for the approval of the Assembly, but was thrown out. Somewhat similar measures were proposed in, and rejected by, the Legislatures of New South Wales and Tasmania.

Alternative  
remedies.

The evils which the referendum might be expected to remove have been briefly stated. They are serious; and the appropriateness of the remedy seems indisputable. We have now to consider whether any other remedy can be suggested. It is at this stage that the case for the referendum loses much of its force. It is important to distinguish between fundamental and non-fundamental laws; but the distinction can be easily effected without the aid of the referendum, and already exists in many constitutions to which that expedient is unknown. The defects of the representative system, such as the failure to represent minorities, the confusion of political issues, and the excess of the personal element in ordinary elections, can be overcome by reformed methods of representation. By those who have taken the trouble to understand the Hare system, its power to remedy such evils will hardly be denied. The theory of deadlocks involves a reflection on one or other of the Houses. Clearly, if the Lower House is at fault the resistance to its inclination is pre-eminently useful, and calls for no change in the constitution. But if, as is believed by many, the Upper House is at fault, the remedy would seem to be found in its reform. If it is unduly conservative and persistently opposes useful measures, the most direct and natural remedy would appear to be found in liberalising its franchise, in curtailing the tenure of its members, or in lessening the effects of its opposition. The last-mentioned object could be achieved by a provision suggested

by a late Attorney-General of Tasmania: Bills which the Lower House supports by a majority of four-sevenths, and which it persists in presenting after a dissolution, shall be deemed to have passed the Upper House if supported by three-sevenths of the members.

But the remedies suggested in the preceding paragraph are less radical and complete than the referendum; and in any case much may be said in behalf of an expedient which offers a new educational opportunity for the voter. It becomes necessary, therefore, to discover what the referendum would actually involve. In this connection we naturally ask, What has precedent to say in its favour? Has the experiment been tried elsewhere? If so, what were the results of its application? But such questions must be discussed in a definite order. It is futile to draw conclusions from precedent where the conditions have been essentially dissimilar. The uncertain light of a doubtful analogy is so misleading that it is better to undertake a frank and independent inquiry of the question on its merits in all cases where a similarity of conditions cannot be clearly established. At the threshold of our subject, we are thus compelled to examine three precedents which have largely entered into discussion of the referendum—the ancient Teutonic polity, and the modern Governments of Switzerland and the United States.

Argument  
from pre-  
cedent.

The referendum, it is plausibly argued, is but a return to the custom of our primitive forefathers. In

Teutonic  
polity.

the free assembly of the Teutonic tribe, the decision of all important questions was referred to the popular vote. When the tribe developed into the nation, the attempt to reconcile popular freedom with the conditions of national organisation ultimately led to the makeshift of representative government. Under modern conditions, though a mass vote of the people is still impracticable, it has become desirable to revert to the principle underlying primitive practice. Once again the will of the people should be ascertained by direct reference to the popular vote. Such a line of argument suggests two objections equally fatal to its validity. A form of government, which worked successfully under simple conditions of life, may prove wholly unfit for times full of new and difficult problems. The application of an expedient to questions of administration in a barbaric age forms no precedent for its application to questions of legislation in modern times. Nor is representative government a makeshift; it is the rule of the people by chosen deputies whose control is tempered by a general responsibility to those to whom they owe their elevation, and to whose opinion they must in the long run defer. It is thus no mechanical device for securing the representation of votes. Regarded critically, its object is twofold: to avoid the evils of injustice by securing the representation of all classes; to escape the imputation of incapacity by utilising the ability, and accepting the guidance, of national leaders. I do not ask if these objects are being achieved. It is sufficient for my present purpose

that they exist, and have been proved to be attainable.

But the referendum has been applied under modern conditions in the Governments of Switzerland and the United States. Yet, if we examine the conditions of its application in these countries, we discover peculiarities so marked as to render any argument from analogy most dangerous. I am quite aware that it is easy, in a spirit of uncritical scepticism, to allude to conditions which are non-essential—to mistake a merely negative for a positive significance. But the inappropriateness of the suggested analogies appears indisputable when once they have been subjected to the limits of impartial analysis. Whether the referendum be good or bad in the present condition of English or Australian politics, is a question which must be discussed on its merits. We must not attempt to justify or to condemn it on the support of analogies which can suffer no investigation.

Applica-  
tion in  
modern  
politics.

What are the conditions which deprive the Swiss precedent of any conclusive or even any satisfactory value? Professor Dicey, in his able defence of the referendum, states four reasons for doubting the utility of Swiss experience for English politics. (1) Switzerland is the smallest of independent states. (2) Federalism and localism of an extreme type are natural to it. (3) The backbone of its political organisation consists in cantons and communes. (4) Popular education within its borders is unusually efficient. Of these conditions, the most significant

Switzer-  
land.

is the prevalence of the spirit of localism. Such are the barriers of race, of language, and of territory that local government and the ideas associated with it have acquired a unique importance. Representative government, as Englishmen understand it, has never been applied or even understood. The duty of the Swiss representative is to act as the mouthpiece of his constituents, not as a legislator empowered to deliberate and decide in behalf of a nation. In the transition from English to Australian politics, I should venture to add, as another peculiarity, the continuity of the family in Switzerland. The population is stationary, and the permanence and stability of the family give a peculiarly conservative tone, a measure of reliability, to expressions of popular feeling.

U.S.A.  
(1) Excess  
of checks.

If we turn to the United States, the peculiarity of conditions is even more clearly marked. In reviewing those conditions it is necessary to direct our inquiry to State rather than to Federal politics, since it is only in the case of the former that the reform has any application. The first fact which impresses the student is the multiplicity of restraints upon the free expression of public opinion. The founders of the American constitution, in their deep distrust of uncontrolled democracy, strove to secure stability of government by separating the organs for the expression of public opinion. Power was divided between the Federal and State governments; in the Federal governments, two checks were placed upon ill-considered legislation—two Houses of the

Legislature, and, apart from and beyond these, the Presidential veto. In the case of fundamental or constitutional laws, an additional check was provided in the form of an elaborate machinery for amending the constitution. As Professor Bryce points out, the ultimate result has been to overshoot the mark. Each of the organs is too small to form opinion, too narrow to express it, too weak to give effect to it. Time has aggravated the defects incident to so elaborate a system of restrictions and balances, and the increasing distrust of the people has called for new and more effective means of expressing the popular will. In the State governments, such means have been found in the referendum.

In the second place, it is notorious that American politics are characterised by an exceptional absence of trustworthy men. The most important reasons for this unfortunate circumstance are not, in the opinion of this authority, to be found in the democratic character of American institutions. They must be sought in such relatively accidental circumstances as the want of a social and commercial capital, the restriction of the electors' choice to candidates residing in their district, the absence of the stimulus imparted to politics by questions of foreign policy or constitutional change, and, finally, the number of other and more attractive careers which are open to American citizens.<sup>1</sup>

(2) Want  
of good  
men.

In the third place, the dilemma of State politics is not whether public opinion shall wholly or partially

(3) Servility of Parliaments.

<sup>1</sup> *American Commonwealth*, chap. xviii.

arbitrate on political issues. As the independence of the Parliamentary representative has ceased to exist, the question of its preservation does not arise. The multitude pays no deference to representatives who live in fear of it, "who live," to quote from Bryce, "in the breath of its favour, and hasten to fulfil its behests almost before they are uttered. An impulse or passion dominant among the citizens tells at once on the Legislature and finds expression in a law; the only check being, not the caution of that body and its willingness to debate at length, but the incapacity it often shows to embody in a practical form the wishes manifested by the people. Hence in the American States representative government has by no means that conservative quality which Europeans ascribe to it; whereas the direct vote of the people is the vote of men who are generally better instructed than the European masses, more experienced in politics, more sensible of their interests in the stability of the country. If, therefore, we regard the referendum in its effect upon the State Legislature, we shall regard it as being rather a bit and bridle than a spur."<sup>1</sup>

Conse-  
quent de-  
spair of  
Parlia-  
mentary  
govern-  
ment.

Finally, in casual connection with conditions just noted, and in connection with the dominance of party and the prevalence of corruption, is the attitude of despair with which Americans regard their representative institution. As Professor Bryce explains, the despair arises as much from the merit of the citizens as from the weakness of the Legislatures.

<sup>1</sup> Bryce, *The American Commonwealth*, vol. i. p. 474.



"I do not think I exaggerate," writes Godkin, "in saying that all the busier states in America, in which most capital is concentrated and most industry carried on, witness every meeting of the State Legislature with anxiety and alarm. I have never heard such a meeting wished for or called for by a serious man outside the political class. It creates undisguised fear of some sort of interference with industry, some sort of legislation for the benefit of one class, or the trial of some hazardous experiment in judicial or administrative procedure, or in public education or taxation. There is no Legislature to-day which is controlled by scientific methods, or by the opinion of experts in jurisprudence or political economy. Measures devised by such men are apt to be passed with exceeding difficulty, while the law is rendered more and more uncertain by the enormous number of Acts passed on all sorts of subjects."<sup>1</sup>

These are the four conditions which constitute the historical and philosophical justification for the application of the principle of the referendum to State politics. Can it be maintained that any one of these conditions is present in English or Australian politics? Is the expression of popular opinion subject to the checks imposed by an independent executive? No. Have our best citizens ignored politics? No. Does public opinion so dominate the minds of our statesmen as to destroy their independence? No. Have the people despaired of

Comparison with English and Australian politics.

<sup>1</sup> Godkin, *Unforeseen Tendencies of Democracy*, pp. 138, 139.

their legislative institutions? Again, I answer, No. The time may arrive when these conditions, or at least some of them, will appear in our midst. It will then be opportune to examine the working of the American precedent for the purpose of defending or opposing its application in our own politics.

The argu-  
ment from  
principle.

In despair of any real assistance from precedent, the student naturally turns to consider whether the general principle underlying the referendum can be justified in the light of reason and historical laws. Can we advocate the principle *for its own sake and apart from its potency to remedy particular evils*? We cannot hope to answer this question without an appreciation of the fundamental principles of representative as opposed to direct democracy. The fact that some of these principles are often discredited or ignored, must excuse a more careful examination than would be otherwise necessary. But before we undertake this examination, candour requires us to observe that the machinery of the referendum has peculiar difficulties of its own. Each application must involve much of the turmoil of a general election; the submission of clear and simple issues must be a task of extreme difficulty; if the expedient were applied at all frequently there would be great difficulty in securing a large and fairly representative vote; in any case, a disproportionate influence must accrue to the more compact populations. Of course too much attention must not be paid to these facts, but they are sufficiently serious to deserve mention. They are factors which must

Mechanical  
difficulties  
of the re-  
ferendum.

be taken into account, if our results are to prove trustworthy.

The theory of representative government has undergone, since its first realisation, a transformation which is still continuing and has already been accompanied by social changes of great importance. The modern candidate for popular support relies upon his political views rather than upon general considerations of character. Representative government is democratic; it implies a confidence in the legislative wisdom of persistent majorities of the people. The experience of our time has justified this confidence. We have learned to see a real virtue in the popular majority, even when opposed by an active and intelligent minority. Nor is it difficult to discover a reason. Speaking generally, the enlightened few are those born to superior opportunities; and we know on good authority that it is not easy for a rich man to enter into the kingdom. When fidelity to the *status quo* is justified by reasons so agreeable to prejudice, emancipation is not easy. Motives of policy or philanthropy may exercise a counteracting influence upon the minds of isolated individuals, but the government of a class can hardly be otherwise than unduly conservative. When a prophet announces to men some new truth which is to affect their conduct, and to involve a departure from conventional standards, he may well base his hopes for the future on the relatively greater receptivity of the masses of the people. "And the common people heard Him gladly"!

Present  
theory  
of repre-  
sentative  
govern-  
ment.

End of  
the State.

The peculiarly conservative temper of the more intelligent classes is but one aspect of a familiar truth—*men look first after their own interests*. The recognition of this truth in its relation to the proper object of state action has necessitated a profoundly important distinction between industrial and political organisation. The state is not called upon to discharge an ulterior function ; it is no mere machine for the production of wealth or the conquest of foreign countries. Its function is the corporate good. Thus, in the sphere of politics, a wide sympathy is the first test of administrative efficiency. The assurance of sympathy is the most significant aspect of constitutional progress ; and the recognition of its importance explains the great conclusion of modern politics ; that the masses are, in the long run, better judges of what is good for them than the classes who are above them. It is easy to talk of the prejudices of ignorance ; but the prejudices of self-interest are apt to be more actively dangerous and less amenable to reason.

Experi-  
ence.

The value of the judgment of persistent majorities of the people would seem to be attested by the history of political agitation in England. "Not a measure," writes May, the constitutional historian, "has been forced upon Parliament which the calm judgment of a later time has not since approved ; not an agitation has failed which posterity has not condemned." The conclusion implied in the language of the historian, though in sympathy with the reasonable expectations of statesmen, may possibly be dis-

credited by future experience. But however this may be, one thing is certain. The profound belief in the wisdom of majorities is the capital fact of modern politics, and one which must be accepted as a starting-point by the reformer who would be practical.

A difficult question arises when we attempt to apply the foregoing creed to actual politics. Where the persistency is sustained through long periods, few will dispute its authority. But what length or what ardour of persistency is to be deemed adequate? As Sir Henry Maine so forcibly pointed out, universal suffrage would have prohibited the spinning-jenny, the power-loom, the threshing-machine; it would have restored the Stuarts and proscribed the Roman Catholic and the Dissenter. Nor, in any one of these cases, could we deny a respectable continuity of popular conviction. Such facts are striking; it is well to recognise them, but they do not raise insuperable difficulties. In the first place, no one claims infallibility of judgment for human nature. Though a government commits serious blunders, this is no conclusive proof of its unfitness. In the second place, no one claims that universal suffrage is good for all time. Maine's argument is based upon particular conditions of national character, and suggests its own answer. The spread of education, the increased facilities for publicity, the improved receptivity of the masses, justify an increased confidence in the popular judgment. That the definition of reasonable persistency must vary with the age is a

Applica-  
tion of  
above  
theory.

conclusion of common sense. It is also a law of social evolution.

The other side of the representative theory.

But if representative government implies a belief in the virtue of lasting majorities, it also implies a disbelief in the judgment of momentary majorities. While admitting the ultimate reliability of numbers, it denies their immediate reliability. To put the matter from another point of view, it implies that there are other elements than sympathy in the definition of administrative efficiency. Clearly the *rationale* of this belief must be impartially examined if we are to pass judgment upon any expedient which, like the referendum as ordinarily advocated, aims at the ascendancy of the doctrine that all legislative measures shall become law whenever a national majority can be secured in their favour.

(1) The division of labour.

If we compare the civilised with the uncivilised society, the modern division of labour is the most striking of the many differences which arrest our attention. The simplicity of tribal and industrial arrangements has been superseded; in its place we have the bewildering complexity of the modern state. The constant differentiation which has everywhere characterised progress may be regarded from two points of view. It has rendered progress possible in the past; it is essential to progress in the future. Its vast importance must appear on the most cursory inspection. The division of labour allows one man to devote the whole of his time and energies to one particular employment; his increased opportunities involve the cultivation of a special skill, and the

acquirement of a special information; finally, when once the system has been established, the processes of competition are constantly tending to drive into any particular calling those who display a preliminary fitness for its exercise. Such differentiation is an inevitable element in all industrial progress. The operation of the same law may be traced within the sphere of politics. If the management of a factory requires special time, information, and skill, it is not easy to see how such qualifications can be dispensed with in affairs of state. Clearly, if we take the average voter, with his deficient knowledge, his deficient training, his want of ability, of time, or of interest, we must be prepared for the extreme fallibility of his political judgments. When, however, a large number of these average voters agree, and a conclusion has been endorsed by a majority of the population, a too ardent democrat might contend, in apparent reliance upon a sum in addition, that from the accumulation of many small intelligences there results a mysterious supreme intelligence, whose voice is the voice of wisdom. Literally, *Vox Populi, Vox Dei*.

*A priori*, one must condemn this belief as a curious illusion; yet it has grown with amazing force, and casts a spell over the popular imagination which may seem to augur ill for the future. It is a blind appeal to mere numbers which recalls to mind the profound remark of Aristotle—while the error of oligarchy consists in assuming that those who are unequal in some respects are unequal in all, the error of democracy consists in assuming that those

Refusal to  
recognise  
the prin-  
ciple in  
politics.

who are *equal* in some respects are *equal* in all. "The pretension," remarks Amiel, "that every man has the necessary qualities of a citizen simply because he was born twenty-one years ago, is as much as to say that labour, merit, virtue, character and experience are to count for nothing; and we destroy humility when we proclaim that a man becomes the equal of all other men by the mere mechanical and vegetative process of natural growth."<sup>1</sup> It seems, indeed, hardly possible that such views could ever have found support but for a dangerous confusion which the true democrat should avoid as inimical to his cause. I allude to the confusion of momentary and persistent majorities, and the attribution to the former of the virtues of the latter. There is a wisdom and a power in the judgment of the many which no individuals can claim. But the judgment of the many, if it is to be accepted as such, must be subject to the same law as the judgment of the individual, it must be *deliberate*. It is as different from the verdict of momentary majorities as the weighed and chastened conviction of a citizen differs from his first and premature opinion.

The experience of  
U.S.A.

It is easy to verify by observation the extreme fallibility of popular judgments which have not been subjected to the ordeal of hostile criticism and the various tests which time imposes. If we take the one great modern democracy where the will of the merely momentary majority has been a real influence in legislation, the limitations of the average voter are

<sup>1</sup> Quoted Willoughby, *The Nature of the State*, p. 413.



clearly attested. The citizens of the United States have displayed a commendable capacity for dealing with political problems involving clear issues or depending upon moral sentiment. But experience has proved their inability to grapple with that increasingly large class of questions which requires the display of exact knowledge or sustained thought. Nothing can be more significant than the admission of Professor Bryce. "The European critic," he writes, "may say, 'If the mass of mankind possess neither the knowledge, nor the leisure, nor the skill to determine the legislation and policy of a great state, will not the vigour of the Commonwealth decline and its resources be squandered? Will not a nation ruled by its men in reliance on their own average wisdom be overtaken in the race of prosperity or overpowered in a warlike struggle by a nation of equal resources, which is guided by its most capable minds?' The answer to this criticism is that America has hitherto been able to afford to squander her resources, and that no other state threatens her. With her wealth, and in her position, she can with impunity commit errors which might be fatal to the nations of Western Europe."<sup>1</sup> In the light of these statements it seems possible to attach some significance to the circumstance that the recent electoral programme of Mr. Bryan, which was based upon the frank acceptance of the principle of unrestrained majority rule, should have received so little support from the great body of the American people.

<sup>1</sup> Bryce, *The American Commonwealth*, vol. i. p. 588.

Summary  
of the  
argument  
for employ-  
ment of  
special  
capacity.

In the preceding paragraphs I have ventured to speak of premises which seem indisputable—so indisputable, in fact, that we are apt to forget them. Popular interests can only be guaranteed when the people exercise a definite control over government and legislation. On the other hand, progress is only possible when there is ample scope for utilising all the special capacity which the community affords. To harmonise these principles is the great problem of democratic government. Yet there can be little doubt of the general direction in which a solution is to be found. To ignore the claims of permanent majorities, or to advocate the claims of momentary majorities, is to sacrifice one or other of the two great principles in question. “You can fool part of the people all the time,” said Lincoln, “and all the people part of the time, but you cannot fool all the people all the time.” The people must rule if their interests are to be duly consulted; but if the government of the people is to attain its ends, there must be skilled men to execute its decisions, and great men to stimulate the direction of thought, and to fire the popular enthusiasm. Though the multitude must not yield unquestioning obedience to its leaders, it must defer to them. On the other hand, the right of its leaders to anticipate or to delay its claims must rest upon a capacity to interpret that reason which underlies momentary expressions of the popular will, but outlives them; which is the will of the people, yet something above the people. The Higher Self of the People! Thus, for the successful working of democracy, we need adequate

means for ensuring that the course of legislation shall be determined by the matured and deliberate judgment of the people, rather than by the opinions of fluctuating majorities. The expression of popular will must be subject to certain restraints in the interests of fair discussion and the moderating counsels of national leaders. In its power to achieve such ends rests the most important justification of representative government.

But the expediency of restraints upon the popular will, implied in the theory of representative government, can be justified on other grounds than those which are suggested by a review of the advantages involved in the division of labour. If long experience of governments of different ages and climes proves one thing more clearly than another, it is the moral degeneracy which waits upon the ruler who exercises a despotic control. The law has the clearest demonstration in private affairs. No one dreams of maintaining that it is desirable to have one's inclinations granted with invariable promptitude. The people, acting in a corporate capacity, are not exempt from the frailties of the individual. Nor has the fact been ignored in previous practice. If democracy has been saved from the imputation of incapacity by the institution of representation, it has been saved from the evils of absolutism by the restraining influences of constitutional government. The legislative, executive and judicial functions are distributed among organs which are more or less distinct, and are constituted to exercise a reciprocal restraint. It is idle

(2) Dangers of  
despotism.

to talk of the adequacy of the checks which a vigorous minority may impose. When political supremacy is given to the momentary majority, the vitality of minorities must wither; the despotism of numbers throws over the popular imagination a spell which imperils the independence of the most vigorous minds.

(3) Instability of government by momentary majorities.

There can, I think, be no doubt that the supremacy of momentary majorities prejudices *stability of government*. I am quite aware that large masses of the people often move slowly and are essentially conservative. But what provision can be maintained in practice for securing that the majority of the voters shall represent a majority of the electors? And it seems scarcely possible to conceive of any device for ensuring the existence of a respectable continuity of conviction or opinion among the majority of actual voters. For both these reasons, among others more obvious, while the people, as a whole, move slowly, the judgments of majorities may fluctuate rapidly. Under their absolute supremacy, the ship of state is all sail and no keel.

(4) Want of a school for training leaders.

The supremacy of momentary majorities is bad for another reason less direct and immediate in its operation, but probably more important in its effects. If there is any generalisation of political science which must appeal to our experience and common sense, it is that the successful working of a democracy presupposes the existence of special facilities for developing and using the wisdom of its ablest members. To have good leaders, to use them and to control them—

this is the solution which democracy has to offer to the eternal problem of achieving a just compromise between the principles of authority and liberty. But the supremacy of momentary majorities means a fatal blow at those representative institutions which have hitherto provided a school for the training of political leaders. The *prestige* of Parliament is destroyed when its deliberations and conclusions cease to be the determining factor in legislation. The transfer of the real responsibility for legislation to a new power implies the discrediting of the old school for training leaders. Of course this does not mean the abolition of the leaders, but rather the transfer of leadership from Parliament to the press. At present I am not concerned to inquire whether government by newspapers would be really more democratic than government by Parliament, but whether the press would be likely to prove a better school than Parliament for the production of good leaders. If we compare the position of the statesman with that of the editor, the superior opportunities of the former seem almost beyond question. The one is a private citizen entrusted with the management of a business enterprise, the other holds a public and responsible office; the one addresses a jury, most of whom hear only his side of the case, the other speaks where he is subject to constant criticism and contradiction; the one enjoys a responsibility in which the skilful provision of "news" predominates over everything else, the other stands or falls by his political reputation. If we regard such facts in combination, it is difficult not to feel that the

recognition of the political supremacy of momentary majorities, or, indeed, any other circumstance which would tend to transfer the work of training political leaders from Parliament to the press, would be against the best interests of a nation. As to the further point whether government by the press would be more democratic, I can only quote the language of a very able and distinguished member of the Australian Federal Convention. I make the quotation with the more confidence, because it was expressed upon a great occasion in the history of colonies which have every reason to be proud of their press. "The exigencies of newspaper enterprise," said the Honourable B. R. Wise, in the Australian Federal Convention, "require that it shall be conducted by an almost absolute authority, whom the general public seldom know, whom they perhaps hardly ever see, whom they can never question, whom they can never hold responsible, and over whom they can exercise only a most remote and nebulous control. There may be, as Mr. David Syme suggests, no risk involved in the change of masters; but for my part I would sooner trust the destinies of the country to the worst Parliament the people of Australia would elect than to the best newspaper the mind of man has ever imagined."

Historical  
significance  
of the re-  
ferendum.

The foregoing arguments, taken in combination, may be said to constitute the justification of representative democracy. When such a form of government is completely established, future progress seems to consist in increasing, to a reasonable extent, the effectiveness of the popular control. But a stage

may at last be reached when this control is so direct, constant and omnipotent, that no scope whatever is afforded for the display of superior capacity in the chosen representative. Very similar results may be obtained in a formal manner by referring all the more important questions to the popular vote. In either case a great and momentous change has been effected—a change so far-reaching in its effects, and so clearly opposed to some of the lessons of history and everyday life, that it can only be justified on the clearest demonstration of necessity. The historical significance of the referendum is thus disclosed. Hitherto the democratisation of representative institutions has proceeded without impairing the efficiency of government. Indeed, if we attach due importance to considerations of sympathy and the education of the voter, that efficiency has steadily increased. But a new epoch has arrived. An attempt is being made to give an ultimate application to democratic principle, and the change cannot be effected without sacrificing the various advantages which the division of labour implies. In other words, while we may appear to be following on the lines of the past in one respect, we are neglecting its clearest teaching in another. Time has not yet seriously affected the truth of Bagehot's statements. "The feeling of a constituency is the feeling of a dominant party, and that feeling is elicited, stimulated, sometimes even manufactured, by the local political agent. Such an opinion could not be moderate, could not be subject to effectual discussion, could not be in close contact

with pressing facts, could not be framed under a chastening sense of near responsibility, could not be formed as those form their opinions who have to act upon them. Constituency government is the precise opposite of Parliamentary government. It is the government of immoderate persons far from the scene of action, instead of the government of moderate persons close to the scene of action; it is the judgment of persons judging in the last resort, and without a penalty, in lieu of persons judging in fear of a dissolution, and ever conscious that they are subject to an appeal."<sup>1</sup>

The real  
question  
at issue

I believe less support would have been given to the proposal to substitute the direct and immediate consultation of constituencies for the present system, if the significance of the proposal had been more clearly grasped. The question is not whether a man can trust his own opinions, but whether he can trust his neighbour's. The answer in the one case is ordinarily in the affirmative; in the other case a more wholesome scepticism prevails.

Summary  
of argu-  
ment.

Looking back for a moment, we have seen that precedent does not warrant the application of the referendum in English or Australian politics; that history and reason condemn the principle which underlies it, as opposed to some of the clearest lessons of experience; that, as industrial progress is only possible where full scope is given to the utilisation of special ability and special information, so political progress, while requiring a popular control of the

<sup>1</sup> Bagehot, *English Constitution*, No. 5.



rulers in order that the interests of the many may be consulted, is subject to the same law; that the will of the people, which has stood the test of time, is therefore, in the long run, our safest standard of legislation; that the majority, like the individual, can only lose by having its momentary inclinations gratified with invariable promptitude; that improvement in the race necessarily lowers the degree of persistency we may justly exact of the popular verdict, until, in a state where all men were perfect or equal, the need or the occasion for restraint must wholly vanish. But as yet we have not reached this stage. For the successful working of democracy under existing conditions we need great men to lead it, skilled men to carry out its decisions, and, finally, effective means for securing that its deliberate judgment shall be the standard of legislation. To each of these three requisites, the principle of the referendum is directly and manifestly opposed. By attributing ultimate authority to the fluctuating majority, it must tend to drive strong and independent men from politics, to lower the standard of legislation, and to increase the sense of popular despotism. It is an undue sacrifice of the qualities which go to make efficiency of government to the considerations of a slightly increased sympathy and a slightly increased educational influence. As such, its principles must be condemned. It is a desperate remedy, which can only be justified by a desperate disease. I should like to conclude this part of my argument by quoting from the debates of the Australian Federal Conven-

tion. "I accept frankly and unreservedly," said the Honourable B. R. Wise, "as the cardinal dogma of popular government, that a strength and depth of good judgment and discretion are developed in the massing and union of men, which is to the wisdom of the individual, however gifted, as the might of the waves of the sea to the pools which are left upon the sand by a retreating tide. But I altogether deny that the principles which justify a wide or even a universal suffrage have any application to this question of the referendum. The people are the best guides of what is good government, because the people are the first to suffer from, and suffer most from, bad government. But to admit that in the fullest terms as a justification for popular rule, does not involve the further admission that in all Parliamentary disputes—which often depend upon matters of a highly technical character, and frequently involve personal questions which those at a distance are not able to fully estimate—the great body of the people are the best judges. . . . It may be urged that the argument that I have been using goes too far, because it would preclude one who used it from advocating the settlement of disputes by means of a general election. But there is this wide difference between the determination of a question by general election and by direct vote of the people: That in the former case there is allowed an interval for reflection, an opportunity for repentance. In the case of a general election, as we all know, there may be a strong wave of party feeling carrying everything

before it ; but we know also that before effect can be given to the expression of the popular will, as there evidenced, the seven or eight men who are responsible for the execution of the measures they may enact have a further opportunity of shaping that popular opinion, and, if necessary, putting a check upon it. I am not going to run the risk of stirring up recollections of past controversies ; but I appeal to any honourable member of this committee whether it is not within his own experience that public opinion, as expressed by newspapers, as expressed upon the hustings, has been modified profoundly, but most usefully, by the Ministry that came into office, purporting to give this public opinion legislative form ? It is that which makes a general election a real test of the true opinion of the public, and distinguishes it from that expression of public opinion which is furnished by a vote by means of the referendum, which may be merely the evidence of some passing gust of popular passion. . . . We do trust the people, but what we trust is the deliberate judgment of the people ; and that deliberate judgment we obtain, not by chance votes on questions that are only imperfectly understood and in which the people take but little interest, but by an expression of opinion obtained first in a general election, and then more definitely voiced by those in whom the people themselves have confidence."

I believe it will be generally admitted that such arguments derive an added force from the character of the times in which we live, and the kind of

Argument  
from the  
times.

problems which await solution. If we compare the many-sided life of the citizen of to-day with the life of the citizen of even the early Victorian era, if we reflect upon the significance of the vast material change due to the increased productive power of man, the development of trade and industry, and the increased international intercourse, we are compelled to conclude that no fact can be more deeply significant than the added complexity of our environment. In private enterprise the new factor has displayed itself in an almost feverish struggle to secure administrative talent. Never before has there been so much opportunity for ability of every kind; never before has there been so much need of it. In politics, however, which perhaps more than any other department calls for recognition of the new factor in our environment, there has been a tendency to discount the need for exceptional skill. It is inconceivable that this should go on for long. Sooner or later the great law which Nature has laid down, and which private enterprise (thanks to the rapidity with which the penalty for non-compliance operates) has been quick to learn, will be recognised in the sphere of politics. But the process of recognition may be slow, and the application of the remedy painful. The course of true patriotism and of democracy seems, therefore, to lie in the direction of devising plans for securing the guidance of the best, either as opposed to the supremacy of the privileged, or as opposed to the unchecked despotism of the proletariat.

The kind of problems which more especially

indicate the dangers suggested in the preceding paragraphs are perhaps those which involve the clashing of class and class. There can be no doubt that great economic changes are immediately before us. I, for one, look forward to their realisation with considerable confidence. At the same time, their vast importance requires that they should be carried into effect with the greatest care; that the majority which decides their character and the time for their practical application, must be one whose mind is thoroughly made up, and whose opinions have passed through the ordeal of hostile criticism—in a word, the chastened majority whose will is the controlling power under representative democracy. Now, even more than formerly, the enormous variety of conflicting interests demands increased opportunities for influencing the formation of public opinion by judgment, by research, and by the moderating counsels of an enlightened patriotism.

Class interests.

I have endeavoured to prove that an ideal democratic policy for our times would not include the referendum. In the form which that expedient has ordinarily assumed it is a revolutionary measure undesirable in itself, and only to be justified as a remedy for evils which we cannot hope to redress under the present constitution, and which imply a grave and incurable inadequacy of the means for expressing the popular will. But if such an inadequacy exist, and if Parliaments have ceased to be worthy of popular confidence, certain of the arguments which I have been advancing lose all their practical

Possible reply to above arguments.

force. Of two evils, the citizen must naturally choose the lesser, and he may prefer the blunders of the proletariat to the errors of a Parliament which is either so feeble, so corrupt, or so unrepresentative as to justify a despair of its reformation. Whether this is the condition of English or Australian Parliaments is a question which the citizen must determine for himself. My own opinion is perhaps too favourable to our present legislators to be accepted by the censorious without qualification. I firmly believe that the average representative is still the equal of the average voter in morals, and very materially his superior in the possession of that special ability and special information by means of which we should test capacity for good government. The candidate for Parliamentary honours is generally a citizen who, in some sphere or other, has displayed more than average ability. Curiously enough, when the electors have made their selection, and the chosen candidate has received a Parliamentary training, the number of his critics begins to increase. The more obvious conclusion points, not to the superiority of the critics, but to the very significant fact that men unconsciously raise their standard of criticism in proportion to the elevation of the person who is subject to it. Of course, even if the censor of Parliamentary government conceded that Parliaments are neither feeble nor corrupt, he might still contend that they are unrepresentative, that there is no real approach to the noble democratic ideal of government by the people acting under the guidance of wise and patriotic leaders.

This is a charge in which there is, of course, some truth. In the earlier part of this chapter I alluded to the certain defects in the present constitutional machinery which tend to confuse and obscure the popular verdict. We saw that there is no necessary connection between what the people *appear* to have approved and what they really *do* approve. The evil is grave, but it is not, I believe, irremediable. It calls for reform rather than for revolution, for an introduction of an organic element into our representative system rather than for the substitution of an expedient which is likely to inaugurate an era of direct democracy. In the preceding chapter I have ventured to suggest the suitability of the Hare system for remedying the present inadequacy of the representative system. Although a difference of opinion upon this point is quite possible, it seems indisputable that the introduction of an organic element into our methods of representation, in whatever way the change is effected, is the great desideratum of present politics. Such an introduction would ensure the adequate expression of popular opinion, while it would retain, in a new and more appropriate form, the government to which the past success of modern democracy must be ascribed, and to which our race has become accustomed by long association.

It remains to consider how far the foregoing arguments apply to exceptional cases. Although the ordinary applications of the referendum could not be justified by reference to general principles, or the

Special  
circum-  
stances.  
(1) On a  
great occa-  
sion.

undoubted evils of present politics, it may still be possible that something may be said on behalf of applications on a great occasion, or in certain modified forms. Few will doubt the expediency of referring the proposals for an Australian federation to the direct decision of the Australian people. The question of entering a new political union is one with respect to which every citizen has a right, and is under a duty, to give a direct vote. It should not be difficult to suggest other cases. But it is more important to distinguish between this rare employment of the referendum, under the sanction of Parliament, and modern proposals to incorporate the referendum in the regular machinery of the constitution. In the one case, the general responsibility of Parliament is virtually unaffected; in the other case, the formal enrolment of a new authority in the constitution tends to reduce the Legislature to a body which may draft all laws, but can only decide upon those which are relatively unimportant.

(2) As a part of regular constitution but in a modified form.

Even when the referendum is employed as a part of the constitutional machinery, its form may be so modified as seriously to weaken the force of hostile argument. Practicable modifications involve three distinct principles of classification—the referendum may be used as a veto upon the Legislature, or as a means of settling disputes between the separate parts of the Legislature; it may be applied to ordinary legislation, or confined to questions affecting the constitution; finally, whatever may be the purposes for which it is applied, it may be compulsory or



optional. If we apply these principles we arrive at the following classification :—

I. As a veto upon Bills which have passed both Houses.

(a) Constitutional laws.

1. Compulsory.
2. Optional on the demand of a certain number of voters.

(b) All legislation, in which case it can only be optional.

II. For settling disputes between the Houses.

(a) Constitutional laws on appeal of

1. Lower House against Upper House.
2. Upper House against Lower House.
3. Either House.
4. Joint committee of both Houses

(b) All legislation, on appeal of

1. Lower House against Upper House, etc., etc.

When the referendum is employed as a means of vetoing the Legislature, and is confined to the approval or rejection of constitutional laws, the force of certain objections is materially lessened. In this form the expedient appears in the Australian Commonwealth Bill. Here, however, it can be justified by an argument which only applies to Federal constitutions. I allude to the want of a power or organisation existing behind the Federal and States constitutions, and capable of representing the dual aspects of the federal union. It is perhaps difficult to predict the consequences of such a device if applied to an ordinary State constitution. At first it is likely to prove unduly conservative; ultimately, the independence of Parliament must be

(a) As a veto upon the Legislature.

prejudiced. It requires no vivid imagination to picture the growing potency of the taunt, "The Honourable Member is afraid to let the Bill go to the country!" Like effects might follow in a more direct manner; channels might wear their courses deeper; the referendum, even in its most modified form, might ultimately lead to the initiative—an expedient for securing legislation by the people without the intervention of either House of Parliament. This has been the experience of Switzerland, where the initiative, though absolutely fatal to all the principles on which sound legislation is based, has been introduced into the constitution and appears to be regarded as the logical counterpart of the referendum. Nothing could be more unstatesmanlike than to advocate or condemn a measure by sole reference to the direct and immediate effects of its application. In introducing an important constitutional change it is above all things important to determine what other changes are likely to follow in its train. The student who remembers this fact in connection with modified forms of the referendum, is apt to fear a political illustration of the fate of the nest into which the cuckoo's egg is introduced. It is well to face such possibilities, and to remind the statesman who proposes a reform of this kind that he is proposing to put a hook into his nose. Restraining influences as to time, the class of laws, or preliminary procedure are extremely likely to be swept away. At length the innovation, which in its modified form seemed so plausible, is worked

out in its logical completeness. What appeared so harmless in the garb of innocence stands forth in all the potency of naked simplicity.

It would be difficult to defend such an experiment as the referendum on the plea that its ill success must secure its condemnation. Who is to be *Advocatus Diaboli*? Governments are proverbially blind to their faults; in the case of democracies, the processes of proof and persuasion are attended with peculiar difficulties. Even in private affairs it is very difficult to know exactly where you have gone astray; whether it was the lobster or the salad which caused the trouble. You may recognise an evil without being in the least degree able to put your finger upon the responsible conduct. In the case of a number acting in concert there is an additional element—division of responsibility. Where that number includes a majority of the community there is yet another complication—the sanction must be self-imposed. Unfortunately the conscience of majorities is not hyper-sensitive. From such considerations a certain conclusion follows. Even if the referendum should work badly, there would be great difficulty in securing its condemnation. Indeed, in the light of experience, there must be a strong tendency to extend the sphere of its application. If we attach to these facts the importance they deserve we are compelled to conclude that (omitting the case of Federal constitutions) even the more modified forms of the referendum can only be justified by the plea of a manifest and incurable inade-

Dangers  
of experi-  
ment.

quacy of the present means for expressing the popular will.

(b) Deadlocks.

There is a modified form of the referendum which has secured an ardent and able advocacy in Australian politics. I allude to the proposal to employ the expedient as a means of settling disputes between the two Houses, *i.e.* "as the medicine, not as the daily food, of the constitution." Reference was made to this proposal in discussing the evils which the referendum might remove. In considering the possibility of securing a less drastic remedy, it was suggested that the more natural policy would be to reform the Upper House by liberalising its franchise, by curtailing the tenure of its members, or by providing such constitutional means for overcoming its opposition as a joint sitting of both Houses. The proposal to use the referendum for deadlocks is open to certain very practical objections. If a Bill is referred to the people in the form in which it leaves the Senate, the object of reformers would not be attained. If, on the other hand, the Bill is referred to the people in the form in which it leaves the Lower House, the principle of government by momentary majorities receives a constitutional recognition, and a dangerous opportunity is afforded to members of gaining credit with their constituents by mischievous and sinister amendments, which no party in the House is responsible for accepting or rejecting. For the real responsibility is already transferred to the people from the moment that it becomes certain that the measure will be referred to the popular decision. In fact, the more

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one regards the proposal the more certain does it seem that a fatal blow would be struck at the whole system of Parliamentary government. To give to a momentary majority of the population a power of overriding the influence of the *Upper* House looks very much like a short road to lowering the dignity and responsibility of *both* Houses. Of course desperate diseases call for desperate remedies. Whether such diseases exist is a question which every citizen must judge for himself. My own opinion may be expressed in a sentence. I believe that the present course of the true democrat lies in the direction of reforming the present machinery of the constitution, rather than in the direction of giving to democratic principle an extreme and revolutionary application.

## CHAPTER V

### THE STUDY OF HISTORY IN RELATION TO THE PROBLEM OF CHARACTER

Purpose of  
the present  
chapter.

“THERE is no more terrible sight,” wrote Goethe, “than ignorance in action.” Upon the truth of this statement our time is peculiarly qualified to pass judgment. A blind Samson is in the land: the pillars of society are threatened! If strength is to be utilised in support of the state rather than in its destruction, the difficult question of method must be faced frankly and promptly. How is the amelioration of popular sovereignty to be effected? Not, I venture to believe, by the pursuit of the policy which hopes to play off ignorance against ignorance and prejudice against prejudice, and to secure good government by the arts of flattery, manipulation and intrigue; nor indeed by the improvement of democratic machinery, though this is exceedingly desirable and calls for immediate attention. For above all other questions towers the question of character. The standard of public opinion must be raised by education, by general and systematic instruction in, or study of, some subject which can arrest the attention, sustain the

interest, and improve the political judgment. The purpose of the present chapter is to secure a more general recognition of the possibilities which history affords of achieving such ends.

The solution of a political problem requires two qualifications: a mind disciplined in the processes of correct thinking, and a knowledge of the factors of the particular problem which awaits solution. With the reader's permission, the consideration of the former requirement will be deferred. With respect to the question of special knowledge, it is conceivable that history may be useful in two entirely distinct ways: in the first place, by affording parallels in the light of which the student may understand his factors or even predict the results of their combination; in the second place, by showing how the particular political conditions and forces of the time have acquired their present character. In the one case the question at issue is the value of historical analogies; in the other case the advantage of an acquaintance with the processes of development.

The value of the historical analogy is a question which has received less attention than its importance would lead us to expect. The tendency of historical research, however, is to be extremely critical on this point. The proposition has been long established that the student of a bygone age must dissociate his mind from the empire of existing ideas if he would interpret his subject correctly. At present a disposition exists to support the converse of this proposition, and thus to give a wider application to the principle

Outline.

Disrepute  
of his-  
torical  
analogy.

which underlies it. We are warned against all attempts to discern any solution of present problems in the experience of past crises. The revolt against that tendency to regard the past through the medium of the present, which was so common and so fatal in the earlier part of this century, has been followed by the unsparing condemnation of historical analogies. If this attitude should be endorsed without exception or qualification, a humbler view must be taken of the utility of historical study. If the parallels of history are but snares for alluring the unwary, if it cannot be said with even approximate truth that history repeats itself, then historical study suffers in the popular affection as well as in the popular esteem. Men do not love culture for culture's sake, and are much more likely to be induced to undertake a line of study if they believe it may throw a direct light upon their own particular problems. So clear is this fact that the bias created by its recognition must have been opposed by arguments of great force, unless indeed we may impute an orthodox conclusion to the modesty of historians, to an excess of scepticism in the methods of historical inquiry, or to the violent reaction which awaits an excessive abuse.

The argu-  
ment  
against.

A few words will express the character of the argument by which a prevalent scepticism may be justified. Let us suppose that A and B, which exist as conditions around us, have been affirmed to have previously resulted in X. How do we know that X will follow again? In the past there may have been some *tertium quid* which has eluded the vigilance of



the historian ; in the present some new element may neutralise the activity of A and B ; or perhaps the old result may have been due to the presence of A and B in a very definite proportion. The satisfactory solution of such questions may seem impossible. We are, in fact, reminded of the very dubious value of experience in the life of the individual. Hamerton, in *The Intellectual Life*, alludes to a venerable gentleman who held experience to be much less valuable than was commonly supposed. The problems requiring solution were certain to be complicated by the presence of some unknown element. "This saying of his," writes Hamerton, "has been so often confirmed that I now count upon the pitfall quite as a matter of certainty. . . . Sometimes I have tumbled into it, and when this misfortune occurred it has not infrequently been in consequence of having acted upon the advice of some very knowing and experienced person indeed." This is but an example of the difficulties by which the student of history is faced when he attempts to apply historical analogies to the solution of existing problems. If we are to speak with logical exactness it must be confessed that history never repeats itself. What seems to be a repetition is but the occurrence of similar phenomena on a different plane.

A forcible illustration of such truths is afforded when we strive to cast the horoscope of modern democracy. Both Greece and Rome in the early stages of their history were monarchic ; both subsequently became more or less democratic ; both alike

The argument illustrated.  
(1) Democracy.

passed through democracy to Cæsarism. Are modern states destined to reach the same goal? This is a great question; its answer must determine our attitude towards a hundred and one of the minor problems which perplex us. It even appears to involve the question whether our civilisation is to be one of progress or decline, since it is difficult to hope for progress if we foresee the sway of the Cæsar. At Rome three causes contributed to effect the transition from the Republic to the Empire. The first of these was the condition of chronic militancy. The appointment of the dictator for purposes of effective conquest, at first occasional and temporary, became constant and perpetual: men were too busy in war to think of liberty. "Freedom perished by the sword!" Other causes of political decline were the peculiar character of the Roman democracy (if so it may be called), and the large increase of Roman possessions. The personal non-representative rule of a people is peculiarly exposed to grave evils which were abundantly illustrated in Roman experience; and a vast extension of territory is pre-eminently favourable to, if indeed it does not under certain conditions require, the development of a monarchic polity. What then becomes of our supposed parallel? It fails unless we can prove the coexistence of these causes in modern society. But we cannot do this: the evidences are not favourable to the supposition of increased militancy in the future; tribal hostility is superseded by a qualified alliance; modern democracy, again, is representative, not direct; and among the new disturbing factors which have to

be taken into consideration are the press, steam, electricity, modern commerce and the industrial character of modern civilisation! The supposed analogy altogether fails to help us.

The modern problem of capital affords a further illustration of the dangers of arguing from a superficial analogy. Modern legislation has been accused of a criminal disregard of the claims of property. But the voice of our statesmen and thinkers speaks in varying and uncertain tone. While there are some who say, "Respect our property, for upon its maintenance depend the great springs of human industry—yea, even of human society," there are others who declare an incompatibility between the claims of property and the rights of man. Society is divided, and the question is felt to be practical, urgent, momentous! If history can throw any light upon the subject, its pages should be consulted.

Let us again turn to Rome, but to a different period in its annals. The Empire, as we know, flourished long after liberty had withered away. But the Empire itself fell before successive onslaughts of barbaric invaders. How came Rome to fail in maintaining her supremacy over competitors beyond the frontier? One cause was the want of men. The population was not increasing; on the contrary, it was declining. In the legal system of the early Empire, the recognition of the fact assumed a curious form. Laws were formulated and enacted with the express object of encouraging marriage and population. The *Lex Julia et Papia Poppæa* enacted

(2) Capital.

Decline  
and fall of  
the Roman  
Empire.

(a) Want  
of popula-  
tion.

that, among candidates for office, preference was to be given to him who had the most legitimate children. The same title determined the questions of precedence between the Consuls. A relief from all personal taxes and burdens was granted to all citizens who had a certain number of children. Unmarried persons were to take nothing by way of inheritance or legacy, and married persons without children were to take only one-half of the legacy or inheritance bequeathed to them. This clause was subject to a humane proviso, not without its significance; a woman was allowed a respite from marriage, and consequently from the penalties incurred by celibacy, for two years after the death of her husband, and for eighteen months after a divorce. Thus the Roman subject was compelled to regard celibacy as a modern bachelor might be disposed to regard matrimony, *i.e.* as the more comfortable but more expensive mode of life. A man might be a bachelor if he chose, but he must pay for the luxury. But in spite of artificial encouragements, the evil was not overcome: when the Roman came face to face with the barbarian from beyond the frontier, it was necessary to confide the defence of Rome to the valour of the mercenary.

(b) Decline  
in industrial  
habits.

Other causes than the mere want of men contributed to the decline and fall of the Empire. Of these perhaps the most conspicuous was the decline of industrial habits, partly resulting from the conditions of a chronic militancy, but more directly connected with the rapacity of the Imperial Treasury.

"The Fiscus," writes Seeley, "destroyed capital in the Roman Empire. The desire of accumulation languished where government lay in wait for all savings. All the intricate combinations by which man is connected with man disappeared. The diminished population lived once more as *αὐτουργοί*, procuring from the soil as much as their inward needs required, each man alone, and all alike in bondage to an omnipotent, all-grasping government. For safety they had given omnipotence to government, but they could not give it the knowledge of political economy, nor the power to cure subtle moral evils; accordingly all the omnipotence of government was turned to increasing the poverty, and consequently the sterility, of the population. With malignant ingenuity the men of property were everywhere chained to the spot, that the vultures of taxation might prey upon their vitals."<sup>1</sup>

If we turn from the history of Rome to the problems of the present, the attention is arrested by the coexistence of apparently similar causes. The failure of the human harvest is a prophecy rather than a fact, but it is a prophecy which is apt to excite alarm in the minds of those who remember the example of the most civilised nation, and reflect upon

Applica-  
tion of  
Roman  
analogy.

<sup>1</sup> Seeley, *Essays* (1870), p. 55. In the above outline of the causes of Roman decline, I have not hesitated to follow generally upon the lines laid down in the work from which this extract is taken. In a recent number of the *Nineteenth Century* a contributor suggests the following outline of causes: (1) The dependence of the Imperial diadem upon the gift of the soldiery; (2) the existence of slavery; (3) the distribution of gratuitous corn to the citizens; (4) the financial oppression of the middle classes; (5) the incursions of barbarians.

the widening operation of certain subtle causes which tend to discourage matrimony or to modify its incidents. The reality of the crusade against property is indisputable. Do the fatal experiences of Roman history justify a denial of its expediency? An historical analogy of so alluring a character may prove dangerous to the observer whose indolence or whose prejudice disposes him to precipitancy. The proximate causes of Roman decline to which I have alluded largely derived their force from the existence of moral causes whose operation was subtle and intricate, and whose nature is often very imperfectly paralleled in the life of our own time. Moreover, the modern taxation of property is dictated by a desire to effect a more equitable distribution of state burdens and to secure a greater equality of wealth within the community, not for the purpose of pandering to the vices of an arrogant soldiery, or of supporting the vanity, extravagance and despotism of an Imperial court. Again, the attitude of those who have to those who have not, has gradually changed under the elevating and humanising influence of altruistic sentiment. In the relatively conciliatory attitude of modern capital rests one of our strongest hopes for the future.

The argument in favour of historical analogy.

The comparative method.

The dangers of the argument from historical analogy have been stated at a length which might suggest a desire to conciliate scepticism, but which can be justified by the frequency of their illustration in practice. But I believe that there is another side to the question. The impartial mind will readily

concede that political discussion cannot afford to ignore the contemporary experiences of foreign nationalities. When the expediency of a political reform is under consideration, the inquiring citizen naturally asks how that reform has worked elsewhere. It is untrue to argue that foreign parallels must invariably mislead : that the experience of one country can throw no light upon the problems of another : that differences of race, climate, history, present institutions to be amended or present difficulties to be overcome, must inevitably result in perverting our judgment. Such an excess of scepticism may serve very useful purposes. But its answer is to be found in the comparative method which has taught us to analyse precedents, to distinguish causes which are essential from causes which are not essential, to make due allowances for distinctions which are not differences, and to express a positive conclusion in the language of probability rather than of certainty.

Where, however, precedent is drawn from the past, and not from the contemporary, experiences of foreign nationalities, the difficulties are so considerable as to favour a belief that they are insuperable. The changed conditions of modern society have to be allowed for ; the evidence respecting the past is often vague, disputable, conflicting. Yet I cannot believe that these barriers to the attainment of useful conclusions are invariably impassable. Though the difficulties in the way are increased, the processes of thought are identical. We must not allow our-

The historical method.

selves to be frightened by words: we are making history every day: the contemporary experiences of other countries are really historical; they have become a part of the past long before they come under our consideration. The value which they possess is different only in degree from that which is possessed by precedents drawn from a more remote past. Unless, indeed, it is possible to affirm the curious conclusion, rarely stated but often implied, that we have at last succeeded in severing our connection with the past. The disposition to accentuate the characteristics of the present age, and to conclude that a new era has been inaugurated in which past experience is inapplicable, is very ancient, but it has probably never before been so potent a factor in practical politics. I believe that the disposition is a source of grave danger; and that, in the application of historical precedent as well as of contemporary experiences, we may often usefully employ the comparative method if we pursue our inquiries with patience and express our judgment with reserve.

Historical  
precedent  
and social  
laws.

The belief that the experience of the past no longer affords a guidance for the future is expressed with characteristic emphasis in *Social Evolution*. But Mr. Kidd makes constant reference to the conditions which have hitherto been essential to progress, and justifies the reference upon the ground that the salvation of the race must depend upon the continued existence of these conditions in the future. Surely this is building on the experience of the past.



If it be averred that Mr. Kidd relies upon social laws rather than upon precedent, one is compelled to inquire the meaning of such a distinction. In either case the principle is the same: the scarcity of precedent affects not the character of a law but its reliability. As a rule, the more common the precedent, the more confident we can afford to be in drawing conclusions. But there will often be occasions when our exceptional opportunities for isolating the phenomena under investigation may justify reliance upon a single example. Every one concedes that the same causes will produce the same effects. The real question at issue is approached when we ask whether approximately similar causes may be found in operation during different periods. To give an affirmative answer to this question may seem to argue a strange presumption, yet it is the conclusion to which I feel impelled. No one will deny the dangers which must attend the hasty assumption of a causal identity. They have been so frequently illustrated that historians have often displayed an extreme scepticism. The democrat must not rush in where the historian fears to tread. Rather must he exercise an extreme caution: certain he may be, that where the difficulties are so considerable the chances of his being misled are also considerable. If he is asked to accept a conclusion which is based upon historical analogy, he must consider well the authorities for such an opinion and the arguments by which it is supported. The more complex the problem the more reserved must be his

judgment. If, however, he studies history with a due appreciation of these limitations, he will submit himself to a peculiarly valuable discipline; he will guard himself against the snare of false analogy; and he will entitle himself to draw conclusions of a positive character where there is an essential similarity of causes, or where the differences which exist are not so vague or far-reaching as to preclude the possibility of an exact appreciation.

An illustration

The dangers of the argument from historical analogy have been stated and illustrated at considerable length. An opinion has also been expressed on the other side of the question. The occasion might seem to suggest the desirability of supporting that opinion by some forcible example which should carry conviction, or at least ensure respect. But to adopt such a course would lead me to exceed the limits which the reasonable indulgence of the reader may impose. I shall therefore content myself by quoting from the language of a brilliant historian who illustrates, forcibly and with great authority, the precise value of historical precedents and the true spirit in which their examination should be undertaken. "It is true," writes Mommsen, "that the history of past centuries ought to be the instructress of the present; but not in the vulgar sense, as if one could, simply by turning over the leaves, discover the conjectures of the present in the records of the past, and collect from these the symptoms for a political diagnosis and the specifics for a prescription; it is instructive only so far as the observation of

earlier forms of culture reveals the organic conditions of civilisation generally,—the fundamental forces everywhere alike, and the manner of their combination everywhere different,—and leads and encourages men, not to unreflecting imitation, but to independent reproduction. In this sense the history of Cæsar and of Roman imperialism, with all the unsurpassed greatness of the master-worker, with all the historical necessity of the work, is in truth a more bitter censure of modern autocracy than could be written by the hand of man. According to the same law of nature in virtue of which the smallest organism infinitely surpasses the most artistic machine, every constitution, however defective, which gives play to the free self-determination of a majority of citizens infinitely surpasses the most brilliant and humane absolutism.”<sup>1</sup>

The transition from the debatable to the certain rarely fails to be agreeable. From the opinion which I have ventured to express with regard to the value of historical analogies, I turn with a sense of relief to remark that fine appreciation of a problem which is to be gained by an acquaintance with its historical development. For discussing an advantage of historical study which has been so frequently asserted by learned writers an apology would be necessary but for the practical influence of the curious and dangerous assumptions that the analytical method is all-sufficient, that history is theory, and that the things around us are the only facts which we can know or feel, or about

History  
and the  
processes  
of develop-  
ment.

<sup>1</sup> Mommsen, *History of Rome*, vol. iv. p. 466

which we need concern ourselves. The divorce which exists on this subject between men's intellectual professions and their political practice is sufficiently glaring to justify a very brief statement of the reasons why the present cannot be adequately studied apart from the past, and why there is so much difficulty in reforming evils with whose origin and development we have a very imperfect acquaintance.

Illustration.

If a chess player were called upon to solve a problem in chess, although he might be helped by a knowledge of the previous moves, he would find such knowledge by no means indispensable. The position would be definite and should be comprehensible: nothing would remain for him but to make the best of it. How different is the position of an officer summoned to assume the command of an army! The materials at his disposal are indefinite. One officer is not as another officer; nor is the soldier a definite quantity to be handled with a nice sense of precision. The first steps of the newly constituted general must be directed towards understanding the army placed at his control, towards learning what reliance can be placed upon the valour and endurance of the soldiers, the skill and the spirit of the officers. At every step he will find himself engaged in questions of history. Wherever the human element comes into play this must necessarily be the case. The political student is concerned with forces whose character is uncertain, and whose interaction is subtle and intricate. To understand them he must study their development. At every step of the process he will discover new

truths in the profound aphorisms that the roots of the present lie deep in the past; that what we now are and do is the result mainly of qualities produced in us by the whole previous history of humanity. The truths which underlie such aphorisms derive additional confirmation from very diverse departments of thought. It was once thought possible to understand Nature by a simple study of phenomena as they exist around us: for example, the structure of an animal body without a knowledge of its history. We have long ceased to express this view, if not actually to hold it. The doctrine of evolution has indeed been not inaptly described as an application of the historical method within the sphere of natural science. The recognition of the same truth constituted an epoch in the history of literary criticism. According to Sainte-Beuve, the eminent French critic, each literary work is a product of the mind, only capable of being understood by a study of the character, genius, temperament, bodily constitution, ancestry, race, country, and intellectual, moral and social surroundings of the individual who produced it. Here, too, we have an expression of the comprehensiveness of the modern point of view, a further illustration of the same belief that the product cannot be understood without the factors, the effect without the cause, the present without the past. This belief underlies so much of what is best and truest in modern thought that it is almost possible to speak of the nineteenth century as the Age of the Historical Method. Gradually we are learning to recognise the Reign of Law everywhere.

*Rousseauism*, the belief in man's capacity to escape from the empire of the dead hand, is becoming more and more discredited. We cannot emancipate ourselves from the power of the past, strive how we may. Only in proportion as we recognise and understand it, only as we work upon its lines, can we hope for permanent success.

Influence  
of historical  
study  
upon the  
general  
character

Hitherto our attention has been engaged in observing how historical study may aid the solution of particular problems. We have seen that the comparative study of historical analogies may throw a new light upon the nature of the factors with which we have to deal, if indeed it does not enable us to predict the result of their combination; that, invariably, the deeper significance of such factors can only be revealed by a careful review of their origin and development. If we turn from the consideration of particular problems to the more general question of the influences of historical training upon the mind and character, we have to guard ourselves less against the errors of an excessive scepticism than against the eulogies of a well-meaning but mistaken advocacy. It is idle to expect that history will effect a radical transformation of the character—as if a fool might be made wise, or a rogue honest! Speaking broadly and from a moral point of view, a man must expect to find in history what he takes to it. But the frank recognition of such limitations should not prevent the free assertion of real and definite uses. If history may not create or destroy, it may confirm and modify—strengthen patriotism, soften the asperities of ill-

feeling, broaden and deepen the information, stimulate and direct the thought. Such possibilities should have a special meaning to the faithful believer in popular supremacy. I hope to show that history offers a palliative for some of the most serious evils of democratic government. Intellectually, it contributes a knowledge of social laws and a mental discipline of particular value to the political student; morally, it will go far to lessen the indifference which stands aloof from politics, to modify the dogmatism which results from a deficient sympathy, and to check the irreverence which, like an attendant spectre, accompanies the national pursuit of equality.

If we were to take a comprehensive survey of the progress of mankind within historic times, of the various stages by which mankind has struggled up the slope towards order and civilisation, and if we were then to make a comparative study of the causes which have impeded that slow advance, we could not fail to be painfully impressed by the frequency and the magnitude of those blunders which men commit through ignorance of social laws. Sometimes the ignorance is complete; more commonly it is partial. While often associated with vice, with immoral principles which have received general recognition and support because they tended to justify or excuse the particular weaknesses of the hour, there are times when it is to be found in association with the highest and most praiseworthy zeal. If, from a picture so depressing and so unhappily suggestive of present probabilities, we were to turn to the subject of modern

(1) The informing function of history.

democracy, and to observe the extent to which its progress involves the increase of the political power of the less informed members of the community, at a time when the intricacies of political problems are increasing with the overwhelming complexity of modern civilisation, we should be driven to inquire the means which are being employed to correct the effects of inevitable blunders, and to diminish their frequency by improving the information of newly constituted powers. I do not think such an inquiry could be conducted without sacrificing something of that confident optimism which is so common amongst us, even if we did not learn to recognise the full urgency and gravity of the situation. The remedy is to be sought in securing a truer appreciation of those social laws with whose existence and significance the popular mind has already some acquaintance. For, after all, the relative, not the absolute, ignorance is the evil which has to be fought. Most of us have hazy impressions. How may we convert these into burning realities? How may we guard against the so-called knowledge, the half-understood formula? The more important social laws have their application in the experience of the individual. How may the lessons of common experience be given a new meaning and a political complexion? To me there seems no more certain way than is offered by the study of history. History is concrete, and example is better than precept.

Illustrations.

The value of historical study, as a means of giving a new significance to social laws, may receive illus-



tration and confirmation from two examples—*competition* and *virtue*, as conditions of progress. In the first place, history illustrates the application of natural selection to the life of society. The study of the past should convince us that progress is only possible under the conditions of an active and sustained rivalry. The race to the swift; the battle to the strong! This is the eternal law, and it is futile to complain of it. To cross it is death. Many would say that the law is already known; that it is a matter of everyday observation. Unfortunately, the popular appreciation is not so keen as to call for no enforcement from history. In the second place, history illustrates the dangers of that weak sense of wrong which has accompanied the decadence of the principle of authority. Our times are far too apt to condone violations of moral principle. "We are all liable to err," it is said, "let us not judge harshly." In the selection of Parliamentary representatives, there is a disposition to place supreme emphasis upon a certain kind of intellectual ability, and upon the conformity of expressed views to the preconceived notions of the elector. Moral character is regarded as of wholly subordinate importance. History illustrates the dangers of such laxity. "Moral principles, when they are true," writes Morley, "are at bottom only registered generalisations from experience. They record certain uniformities of antecedence and consequence in the region of human conduct. Want of faith in the persistency of these uniformities is only a little less fatuous in the moral order than a corre-

sponding want of faith would instantly disclose itself to be in the purely physical order. In both orders alike there is only too much of this kind of fatuousness, this readiness to believe that for once in our favour the stream shall flow up hill, that we may live in a miasmatic air unpoisoned."<sup>1</sup>

(2) Intellectual discipline of historical study.

But history *disciplines* as well as *informs* the mind of the student. Its possible utility in this respect is conspicuous. The power of the demagogue is one of the most menacing dangers of our time. Whether he intends well or ill, he is an unsatisfactory leader. The extent of his influence may be accounted for in several ways, but there can be little doubt that it is largely the result of the popular inability to analyse statements, or to test the worth of the evidence upon which they are based. I have known a Conservative member of the House of Commons to create a favourable impression by an argument designed to prove that the responsibility for the great majority of the wars in which England had been engaged during the preceding thirty years rested with the Liberal party. The statement seemed damaging, but a subsequent reference disclosed an extenuating circumstance: the Liberals had been in power during three-fourths of the period indicated! Such examples are grievously common. Our political life calls for the introduction of a judicious scepticism. We need a more general disposition to subject statements to severe analysis, to cultivate the mental attitude which takes nothing for granted, though it

<sup>1</sup> *On Compromise.*

be asserted in a book, or even in a newspaper. Such an attitude cannot be gained by committing to memory the abstract rules of evidence. In politics what we most require is practice in the art of balancing probabilities, and of weighing evidence. Moreover, we want, if possible, to acquire this practice in some study which is occupied with the investigation of kindred phenomena. But the mere statement of such wants suggests the means of supplying them. The study of history is a constant exercise of the faculties in the calculation of doubtful evidence and the weighing of contingent probabilities; further, it has to do with man as a political animal, with the human character as objectively realised in the laws and institutions of the State. Its value as an intellectual training is indisputable. The evidence is never absolutely trustworthy. The most reliable authorities must be questioned, since the historian may have lacked critical power, may have trusted too much to hearsay, or may have laboured under the influence of unconscious bias. The recognition of such possibilities must incline a student to test things for himself. He learns to weigh evidence against evidence, and to appreciate the necessity of sparing no pains if he would reach sound conclusions: he aspires to have a reason for the faith which is in him, and to exact so much of others.

When we turn from the purely intellectual aspects of historical study to the question of moral discipline, it becomes necessary to praise with greater reserve. I have already said that history cannot be expected

The non-moral aspect of historical study.

to effect a radical transformation of character ; that here, perhaps more than elsewhere, a man finds in his subject the spirit which he takes to it. Not only is this so, but there is even some danger of encouraging a certain laxity of moral tone. History largely consists in accounting for things, and men may be so absorbed in the evolutionary development of moral principle as to suffer a subtle, indefinable, and unconscious diminution of reverence for the principles themselves. "Opinions," observes Morley, "may be counted rather as phenomena to be explained than as matters of truth and falsehood." There is an obvious danger lest, in the pursuit of scientific explanations, men may lose something of their loyal and whole-hearted devotion to the cause of higher morality. It is easy to appreciate the need of the warning that we must beware of too much explaining lest we end by too much excusing.

The moral  
aspect.

To state such facts and to face their consequences is imperative. Truth is not to be served by exaggeration ; nor will the cause of historical study be permanently benefited by encouraging extravagant expectations of moral gain. On the other hand, history must not be blamed for a certain laxity which its indifferent study might encourage. Just as the first unveiling of evolutionary morality exercised a demoralising rather than an elevating influence upon many individuals, whose moral code had been based upon the mediæval theory of revelation, so some students of history have experienced a great shock at the discovery that nations and individuals have often

triumphed by wrong, that good so often appears to have come to nought, that evil so often has resulted in permanent gain, and that the doctrine of heredity has applied to the race as well as the individual. The remedy is not to be found in less history, but in more. The student must strive to reach the broader vision, to attain the deeper knowledge. Sooner or later he will learn that it is good and not evil which in the long run has triumphed, that it is only the straight and narrow path which has really led to national or individual greatness, and that the recognition of the constant and subtle interrelation of past and present need involve no confusion of the distinction between right and wrong. To quote a familiar passage from a distinguished historian: "A sound historical morality will sanction strong measures in evil times; selfish ambition, treachery, murder, perjury, it will never sanction in the worst of times, for these are the things that make times evil. Justice has been justice, mercy has been mercy, honour has been honour, good faith has been good faith, truthfulness has been truthfulness from the beginning." "It is by observing the moral current," writes Lecky, "that you can best cast the horoscope of a nation."

A practical reformer might naturally ask, In what precise ways would the study of history, if more generally and systematically pursued, prove a moral gain to democracy? Of the several moral evils which afflict democracy, and with regard to which history might be confidently expected to exercise a powerful influence for good, perhaps the most serious is that

(3) Histor  
and rever-  
ence.

(a) The  
evil.

irreverence which has accompanied the pursuit of national equality. Democracy implies the great principle of equality, since all have an equal right to sovereign power. The progressive realisation of this principle has been the great fact of modern progress, but we are beginning to learn its dangers. It was well that we should attain equality before the law, and that we should attain that political equality which is involved in a liberal franchise. It will be well when we have achieved a greater equality still, an equality of opportunity; when all offices shall be open to the competition of all, and when every man shall receive a preliminary training which fits him to enter into the competition of life with a reasonable certainty of doing justice to his powers. The goal of history might almost be said to consist in a condition of society in which there shall be no waste of individual lives, and no unnecessary restraint upon individual self-development. But the pursuit after equality often goes much further, and displays a mean envy of every form of superiority. The crusade against class domination tends to develop into a crusade against superior worth. Our reflections on this point are not agreeable, but they are salutary. Nature has not made one man's judgment as good as another's; nor can any political scheme which ignores this fact end in aught but failure. However much we may regret the inequality of men, however intensely we may long for a world where every man has five talents, we must never fail to recognise the actual fact of human inequality, and the condition

which that fact imposes upon the course of progress. The stern dilemma of the future is the qualified and controlled leadership of the few, or the decline of the many. Unhappily, in our present pursuit of equality, and under the influence of an extravagant estimate of our progress, we lose sight of this dilemma. One of the gravest difficulties of our time is to arouse a consciousness of weakness in a proletariat given over to the conviction of self-sufficiency. The possession of power has encouraged an assumption of capacity to exercise it; and politics seems to enjoy with theology the singular distinction of excusing its disciples from the toilsome processes of apprenticeship. In a single evening I have known a coterie decide the questions of free trade, woman's franchise, bimetallism, and the future of the Chinese Empire. Yet it would have been difficult to detect any special training or any special equipment which might justify or excuse such confidence. Unhappily, confidence of this sort is encouraged by the flattery of those who angle for the popular vote. We all know Swift's definition of the sensible man as one who held the opinion of the person with whom he happened to be talking. This indirect form of flattery is more common than the open declaration of popular infallibility, but in either form the lie is pernicious. Unless something is done, not to stifle popular opinion but to create a wholesome humility, a popular sense of the value of independent and informed judgment, the outlook must appear gloomy.

The evil is palpable; what of the remedy? <sup>(b)</sup>rem

Possibly there may be none but the bitter experiences of continued failure. But since the disinclination to recognise the claims of superior worth springs more often from ignorance than from any other cause, we may turn with some confidence to contemplate the saving influence of education. Now while any real study must dispose a man to respect worth in others by the mere revelation of his own limitations, the study of history possesses peculiar power for effecting this purpose. The historical student learns the value of exceptional merit; he sees how often the majority has been wrong. Although his hero-worship may be modified, he will at least learn to question the rule of numbers; he will see how often, *how very often*, progress has only been possible in the face of popular opposition; how often, too, the nation has suffered irreparably from failure to follow the prophet whom God hath sent.

(4) History  
and sym-  
pathy.

Dogmatism is another of the evils which afflict democracy. In so far as it arises from the intellectual belief that one man's opinion is as sound as another's, it has already been discussed. I wish now to speak of that dogmatism which results from narrow sympathies and which is exemplified by the man who can see only one side of a question. How fatal is this to right thinking! It betrays a man into believing that he is wholly right and his opponent wholly wrong. It embitters the hostility of faction by preventing compromise, although it is by compromise that we live. There are those who believe



that the peculiar need of our age is a more absolute and whole-hearted devotion to principle, a more loyal pursuit of truth and less of the disposition to compromise out of regard to supposed expediency. Yet in the sphere of politics the dangers of dogmatism still find too frequent illustration to warrant us in ignoring their existence. Their supreme example must of course be looked for in the history of France during the Revolution. Often as the opinion of Jefferson has been quoted in this connection, I cannot refrain from alluding to it here. "I was much acquainted," he wrote in his *Memoirs*, "with the leading patriots of the Assembly. Being from a country which had successfully passed through a similar reformation they were disposed to my acquaintance, and had some confidence in me. I urged most strenuously an immediate compromise to secure what the government were now ready to yield. . . . It was well understood that the King would grant at this time (1) freedom of the person by Habeas Corpus; (2) freedom of conscience; (3) freedom of the press; (4) trial by jury; (5) a representative Legislature; (6) annual meetings; (7) the origination of laws; (8) the responsibility of ministers; and with the exercise of these powers they could obtain in future whatever might be further necessary to improve and preserve their constitution. They thought otherwise, and events have proved their lamentable error; for after thirty years of war, foreign and domestic, the loss of millions of lives, the prostration of private happiness,

and the foreign subjugation of their own country for a time, they have obtained no more nor even that securely.”<sup>1</sup> Surely in the records of human experience there are few more melancholy passages than this. From such evils history will save her humblest student; to broaden his sympathies is her supreme prerogative. We all know the value of seeing the world: he who studies history sees the world as it has been throughout the ages. If he travels across its wide expanse, he will meet with new countries and alien races; he will see how often the noblest have erred, how invariably the right side is wrong in some of its most cherished convictions; above all he will see how fatal to accuracy is partiality. Surely, the prophets have fallen!

*E.g.,  
“theory  
and prac-  
tice.”*

In this connection I cannot help speaking of the popular antithesis between the theoretical and the practical. When a man says to another, “Your argument is sound in theory but false in practice,” he is generally making a confession of incompetence. He virtually says, “I cannot answer your argument but I can call you names. I can enter a general verdict against you by declaring you are unpractical.” In reality we should know well enough that a theory must square with facts or be unworthy of the name. There are occasions, however, when it is possible to attach some meaning to the popular antithesis: the person accused is advancing a plausible theory which is false because it fails to take into consideration the actual forces of life—in a word, suggests a

<sup>1</sup> Jefferson, *Memoirs*, p. 80.

deficiency of knowledge or of sympathy. From much of this kind of theory history would save us. We learn to place slight confidence in systems, or in paper constitutions; we learn to trust to natural growths rather than novel inventions.

Indifference is the last of the misfortunes of democracy to which I wish to refer. The reality of this evil has been sufficiently illustrated in an earlier chapter. I believe that here again history is capable of doing much. "The best that history gives us is the enthusiasm which it arouses," said Goethe. The sense of responsibility to the state is quickened, and our whole moral energies are stimulated by the wealth of noble examples and great ideas. True, history offers no encouragement to that melodramatic instinct which often leads the uncritical mind to deify the hero. But for this reason among others, men may hope to gain from it a moral inspiration. Not every great and noble character can fire the imagination of the student: the exercise of beneficent influence is the privilege of the kindred soul, and man can feel no kinship with the perfect. From the creations of a super-human exaltation the historical student of to-day turns to the lives of men who have been great and yet human, and in whom he may recognise himself on a higher plane of achievement and thought. To his own fireside he can summon from their graves the mighty spirits of the past. In the communion of soul with soul and in the inevitable recognition of his own unworthiness, he may find one of the

(5) History  
and the  
popular  
interest in  
politics.

surest sources of moral inspiration. But in history there is not only a wealth of noble examples, there is a wealth of great ideas. I will mention but one, that of progress. It is impossible to follow the course of civilisation without feeling an enthusiasm for the future. While history does not sanction that indulgent optimism which persists in believing that all has happened for the best, it is impossible to contemplate the march of the centuries without being profoundly impressed by the grandeur of human evolution, and the majestic possibilities of the future. *If we are but faithful!* The condition may seem a commonplace to some; to the historical student it will seem a great truth, pregnant with meaning and invoking a new sense of awful responsibility. It is from the contemplation of such ideas as these that the student may hope to gain a confidence in the present, a faith in the future, a new and inspiring conviction of human destiny and human responsibilities.

## CHAPTER VI

### THE PROBLEM OF UNION. THE ARGUMENT FOR FEDERATIONS STATED AND EXEMPLIFIED

AMONG the vast changes which are taking place in the political world of to-day there are two whose existence and importance are beyond question. On the one hand, we may observe the popularisation of political institutions. Successive extensions of the franchise, stimulated by the intrigues of party but only rendered possible by the new environment, have largely realised the political ideals of democracy. On the other hand, there is the apparently inconsistent tendency towards the formation of large political aggregates. Not only are the various European Powers engaged in the great work of empire-building, but evidences exist of a growing inclination towards the establishment of political bonds among the Powers themselves. To the publicist, no less than to the poet, an even larger hope has come—the vision of a world state! “Meanwhile,” says Bluntschli, “unconquerable time itself works on unceasingly, bringing the nations nearer to one another, and awakening the universal consciousness of the community of mankind;

Modern tendencies :  
(a) towards democracy, and

(b) towards large aggregates.

and this is the natural preparation for a common organisation of the world. It is no mere matter of accident that modern discoveries and numerous new means of communication altogether serve this end, that the whole science of modern times follows this impulse and belongs in the first place to humanity, and only in a subordinate way to particular peoples, while a number of hindrances and barriers that lay between nations are disappearing. Even at the present day all Europe feels every disturbance in any particular state as an evil in which she has to suffer, and what happens at her extremest limits immediately awakens universal interest. The spirit of Europe already turns its regards to the circuit of the globe, and the Aryan race feels itself called to manage the world."<sup>1</sup> Poet and publicist may have erred in entertaining hopes so generous, but one thing is certain. The tendency towards union on a vast scale is evidenced in all departments of life. In the religious world the attempts to combine alien creeds into one visible church organisation promise to effect changes in the sphere of dogmatic theology. In the world of commerce the creation of large commercial aggregates, mammoth farms or vast syndicates, is everywhere apparent. Similarly, in the sphere of thought, amidst all the diversities of modern controversies, it is possible to trace the influence of an aspiration after a wider and deeper unity.

I have spoken of the two tendencies towards democracy and wide dominion as apparently incon-

Reconciliation of foregoing tendencies.

<sup>1</sup> Bluntschli, *Theory of the State*, p. 31.

sistent. Historians have long since recognised the natural connection between democracies and small states, and that liability to a militant imperialism which is apt to accompany the processes of territorial expansion. How, then, are the tendencies in question being reconciled in modern politics? Not by a gradual sacrifice of one to the other, but by the gradual adoption of a form of government which offers an ideal opportunity for the construction of vast political aggregates, and yet, so far from being inconsistent with democratic ideals, requires some measure of democracy for its adequate realisation. I refer to federal government. All the evidences point to a wide application of this form in the near future. There is perhaps no fact in the whole range of modern politics more deeply significant than the progress of federal movements within our own time. During the closing years of the eighteenth century federal government was the monopoly of the scattered settlements on the eastern coast of America. But the United States, while retaining their affection for the constitution of 1787, have now developed into a vast, powerful and populous republic. Switzerland was federated in 1848, Germany in 1871, Canada in 1867. Thus within one hundred years of the adoption of a form of government by certain remote colonies, that form has been embraced by one half of the self-governing population of the world! The present prospects suggest further developments on the same lines. For apart from existing federations, a tendency towards the federal type is displayed in the

governments of Austria, Hungary, Norway, Sweden, Australia, South Africa, and the British Empire as a whole. The general conclusion seems irresistible : the federal democracy is the great governmental type of the future.

Imperial  
significance  
of the  
federal  
movement.

But whatever doubt may be entertained as to the world-wide significance of the question of federal union, few subjects of the Queen will doubt its importance within the sphere of imperial politics. The little Englander is almost dead. Canada is already federated ; Australia is virtually certain soon to become so ; in South Africa union has become more than ever a matter of practical politics. Alike in England and the colonies the vision of an imperial federation is slowly acquiring a hold upon the popular imagination. Under these conditions an imperial interest attaches to the events now taking place in Australia. The youngest of the continents is affording, not for the first time, an object lesson to older countries. The reasons which may be adduced to justify the present Australian movement are such as must appeal to federalists wheresoever situated. What is the exact character of these reasons ? What is the nature of the new Constitution which Australian statesmen, acting with a free hand and having the advantage of various precedents, have to offer Australian citizens ? To answer these questions is the object of the present and following chapters.

Divisions  
of subject-  
matter.

The reasons which may be urged in defence of an Australian union naturally group themselves under the three heads of Peace, Prosperity, and Honour.



The proposed mode of effecting that union suggests a brief consideration of the merits of the federal form. The *urgency* of the question, an aspect which is not sufficiently appreciated even in Australia itself, seems to call for some remarks upon the objections which may be urged against immediate action. The English reader might perhaps expect, as an appendix to the foregoing, some discussion of the present extent to which leading arguments for Australian federation might receive a more general application. The arguments, however, are of such a nature that their application to federal proposals in other parts of the world can generally be made without involving any more trouble than is occasioned by alterations of a nominal character. This does not mean that the case for imperial federation, for example, is as strong as the case for Australian federation. In imperial politics the difficulties to be surmounted are for the present more serious than exist in purely Australian politics, and indeed probably require, as a preliminary to their settlement, the establishment of federations in the several colonial groups. "The Dominion of Canada," writes an impartial authority, "has rather strengthened than weakened the relations of the North American group of colonies towards the mother country."<sup>1</sup> The distinguishing fact of Australian federal politics may be briefly stated. While the arguments in *favour* of union are generally stronger than elsewhere, the objections *against* union are generally very much weaker.

<sup>1</sup> Hart, *Federal Government*, p. 77.

## PEACE

War and  
peace as  
factors in  
progress.

The long peace which the Empire has enjoyed under the protection of the mother country has been attended by one very obvious disadvantage. Men do not readily perceive the importance of securing to themselves or to their posterity the blessings which they have been apt to receive as a matter of course. The remedy would seem to be found in obtaining that broader vision which may be gained by a retrospect of the utility of war and peace in the course of social progress. The first faltering steps of primitive man towards the goal of civilisation were taken under the stress of constant conflict. Combination for purposes of defence against external foes was the condition of survival. Thus men learnt the golden lesson of union under the stern tutelage of necessity ; by war was the race rescued from the conditions of barbarism. In the interests of self-preservation men were compelled to undertake the work of union in larger and larger groups. The larger groups continued to wage war against each other, but within the group peace was established—the one thing to which all other things were to be added. Tribes which failed to learn the stern lesson of nature were sacrificed in the fearful struggle for existence. But a great change has come over the world since those early days when war was so essential to progress. Though the struggle for existence continues in our own time the mode of its operation is changing. The conflict of arms is being superseded by the rivalries

of conflicting economic interests. Thus, while in earlier stages the state needed peace within its borders that it might be proof against the horrors of open invasion, in our own day the same need exists, but with the different object of enabling the state to cope with the more secret hostilities of a great economic struggle. If a great country would emerge from that struggle triumphant, it should adopt the most effectual guarantees of peace that its statesmen can devise. Only in this way will it be able to devote the greatest possible amount of energy to the work of national development. The philosopher of the market-place who speaks of the advantages of war probably contemplates the combatancy of foreign nations and the neutrality of his own.

The same conclusion is reached if we survey the course of evolution from the point of view of character. Social evolution has been marked by two great changes—in habits man has ceased to be military that he may become industrial; in disposition he has ceased to be brutal that he may become humane. But if these developments are to continue we must of all things have peace. “On the political side,” writes Fiske, “civilisation means primarily the gradual substitution of a state of peace for a state of war. This change is a condition of all other changes implied by the term civilisation.”<sup>1</sup> “The conclusion of profoundest moment, to which all lines of argument converge,” writes Spencer, “is that the possibility of a high social state, political as well as

Peace and  
social  
evolution.

<sup>1</sup> Fiske, *American Political Ideas*, p. 74.

general, fundamentally depends upon the cessation of war.”<sup>1</sup>

How peace  
has been  
secured in  
the past.

But if peace is so desirable, a proposal for its permanent realisation must deserve the closest examination. Self-interest and patriotism are alike engaged; for in proportion as the supreme importance of the subject is recognised, men are driven to look beyond the evils of the present that they may guard against the dangers of the future, and to remember the claims of posterity as well as their duty to the living. If then, with a due sense of the gravity of the problem, we turn to history for instruction, we discover its verdict to be unequivocal. Peace has been secured in the past by the union of alien or independent groups of men under the protection, and subject to the control, of a common authority. The motive power of the union may be coercion, or agreement. The world first knew peace under the iron rule of the Roman Emperors. In our own day the legions of Rome are a memory of the past; but the civilisation which the *Pax Romana* rendered possible has opened up the prospect of a more glorious peace—more glorious because founded, not upon the principle of *coercion*, but upon the principle of *voluntary union*.

Domestic  
aspect of  
federation.

If we regard the subject more in detail, our attention is directed to three distinct points of view—the Domestic, the Inter-state, and the External. In the first place, union would give to each of the states which unite to form it a more efficient

<sup>1</sup> Spencer, *Sociology*, vol. ii. p. 663.

guarantee of domestic peace. The genius of great areas is relatively pacific, for the intensity of civil discord is in direct proportion to the smallness of the arena on which opposing parties play their parts. What storm so violent as the storm within the teacup—to those who have the misfortune to be within. “The influence of factious leaders,” wrote Hamilton in the *Federalist*, “may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states; a religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source; a rage for paper money, for the abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular country or district than an entire state.”<sup>1</sup>

But union means much more than the preservation of peace *within the borders* of the several states. To the greater security which is realised within a state we must add the diminution of strife in the relations of that state towards the remaining members of the Union. In my endeavour to justify this statement I shall occasionally employ, without

Inter-state  
aspect.

<sup>1</sup> *The Federalist*, 1842, p. 48. This particular aspect of the question of union appealed very strongly to the authors of the *Federalist*, and I have felt no hesitation in making several extracts.

reluctance or apology, arguments which may seem to apply to the future rather than to the present. The loyal subject of the British Empire will readily recognise that the ultimate alternative to federation is the development of colonies into more or less independent states; that, even in the present, much harm may result from inter-colonial quarrels which involve no bloodshed; and, finally, that it is better to guard against some dangers than to await, in incompetence and timidity, the unhappy period of their occurrence.

Adequacy  
of federal  
union to  
secure  
peace.

As such considerations can require no emphasis, our attention may be more profitably directed to two practical questions. In what ways would union under a federal commonwealth afford a reasonable hope of establishing the blessings of peace on a permanent basis? If union is *adequate* for this purpose, is it also *necessary*? The former question can be answered without difficulty or delay. Quarrels which may involve separate states in jealousies or bloodshed are referred, in the event of their union, to the peaceful decision of a common authority. But disputes are not only settled; they are prevented. Under a peaceful federation, there is a constant tendency towards a diminution of the causes which tend to originate or to maintain the conditions of inter-state hostility. Both the sense of a community of interest and the presence of a common tribunal upon whose power and justice reliance can be placed, tend to prevent disputes from ever arising. Local jealousies are deprived of their

importance; a community of feeling is fostered by the community of interest; and to the state of constant distrust or hostility there succeeds the disposition to mutual confidence and compromise.

While the adequacy of union to secure peace between state and state will be generally admitted, there are some who may doubt its necessity, and who may hope for the achievement of the same ends by agencies operating independently of constitutional change. Yet experience does not sanction such hopes. Whether we regard men as individuals, or as members of a group, we are forced to conclude that bloodshed can only be prevented by submission to a common authority. "If these states," wrote a great American statesman, "should either be wholly disunited, or only united in partial confederacies, a man must be far gone in Utopian speculations who can seriously doubt that the subdivisions into which they might be thrown would have frequent and violent contests with each other. *To presume a want of motives for such contests*, as an argument against their existence, would be to forget that men are ambitious, vindictive and rapacious. *To look for a continuation of harmony* between a number of independent, unconnected sovereignties, situated in the same neighbourhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages. The causes of hostility among nations are innumerable. There are some which have a general and almost constant operation upon the collective bodies of

Necessity  
of union.

society. Of this description are the love of power, or the desire of pre-eminence and dominion; the jealousy of power, or the desire of equality and safety. There are others which have a more circumscribed, though an equally operative influence, within their spheres; such are the rivalships and competitions of commerce between commercial nations. And there are others, not less numerous than either of the former, which take their origin entirely by private passions in the attachments, enmities, interests, hopes and fears of leading individuals in the communities of which they are members. Men of this class, whether the favourites of a king or of a people, have in too many instances abused the confidence they possessed; and, assuming the pretext of some public motive, have not scrupled to sacrifice the national tranquillity to personal advantage or personal gratification.”<sup>1</sup>

acific in-  
fluences of  
commerce.

The authors of the *Federalist* admitted, and later writers have often emphasised, the pacific tendencies of commerce and democracy—two great forces of the modern world which operate independently of the more direct agencies of political union. May we not put our trust in these forces? The question deserves attention. Whoever reflects upon the bewildering complexity of modern civilisation—the extent, character and influence of that environment for which commerce has been so largely responsible—must regard the awful possibilities of war with a sense of unspeakable aversion. We have

<sup>1</sup> *Federalist*, ed. 1842, p. 24



given hostages to fortune; in the maintenance of peace we have a deep and growing interest altogether unintelligible to the savage, whose most valuable possessions consisted of the weapons of warfare. Moreover, the commercial interests of the various nations are now so bound together that third parties display a growing inclination to favour, or even to compel, the amicable settlement of disputes. Democracy, too, hath its victories, no less glorious than those of commerce. Under the new *régime*, the monopoly of honour no longer belongs to the profession of the soldier; dynastic quarrels and patrimonial theories of government are superseded; the power of declaring war is placed in the hands of those who suffer most by its exercise; and the sympathies of men are broadened and deepened by the dawning sense of a universal brotherhood.

Yet those err who wholly place their trust in the pacific tendencies of commerce and democracy. The causes of war are largely independent of these forces. The forces themselves have not invariably told for peace; in some special respects they have proved directly favourable to war. The rivalries of commerce have often involved the nations in terrible conflict; the advent of democracy has often forced a nation to undertake a war which it would otherwise have avoided. The commercial republics of antiquity do not escape the imputation of a prurient militancy; nor are the records of modern democracies wholly free from the stains of aggressive warfare. "Have republics in practice been less addicted to war than monarchies?"

Inade-  
quacy of  
these  
forces.

asks Hamilton. "Are not the former administered by men as well as the latter? Are there not aversions, predilections, rivalships, and desires of unjust acquisition, that affect nations as well as kings? Are not popular assemblies frequently subject to the impulses of rage, resentment, jealousy, avarice, and of other irregular and violent propensities? Is it not well known that their determinations are often governed by a few individuals in whom they place confidence, and that they are of course liable to be tinged by the passions and views of those individuals? Has commerce hitherto done anything more than change the objects of war? Is not the love of wealth as domineering and enterprising a passion as that of power or glory? Have there not been as many wars founded upon commercial motives, since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce, in many instances, administered new incentives to the appetite both for the one and for the other? Let experience, the least fallible guide of human opinions, be appealed to for an answer to these inquiries."<sup>1</sup> The present aspect of the Chinese question, the proposed partition of China, serves to afford a very practical example of the worth of such statements.

External  
aspect of  
federation  
in relation  
to peace.

I have spoken of the realisation of peace within the borders of the several states, and of peace in the relations of one state to another. If we turn from the domestic and the inter-state aspect of the question

<sup>1</sup> *Federalist*, p. 26.

to the external, the prospects of union are no less encouraging. As already remarked, the genius of great areas is relatively pacific. The spirit of undue aggression is more difficult to evoke, where the people of a vast territory have to be aroused to action. The prospect of undue aggression on the part of the Anglo-Saxon is one to which little importance will be attached. There are, indeed, some who may deem the mere suggestion of its possibility a proof of unpatriotism and a disregard of the established maxim that foreign wars invariably arise from the folly or the injustice of foreign Powers. I will, therefore, proceed to inquire how to guard against the evils of invasion on the part of other nations. If we are asked the safest means which an individual can adopt to secure himself from the aggression of others, our common sense must suggest the answer. *Be strong!* Gain the respect and the fear of others by the reputation of a power and an inclination for inflicting severe reprisals. "Men," argues Machiavelli, "offend with greater reluctance those who are ambitious to be loved than those who are ambitious to be feared." It cannot be pretended that nations love one another. The ethics of international policy will hardly refuse to justify almost any aggression which is likely to be successful. The demands of a foreign aggressor are measured, less by reference to considerations of abstract justice than by reference to the very elementary principle of getting as much as is possible. Those who fondly believe that the world has passed beyond this stage may be reminded of the unhappy sequel to

the Franco-German war. Can any one forget the defeat of France, or her pitiless oppression by the victorious enemy?

Strength  
which  
comes from  
union :  
(a) re-  
sources.

If, then, safety is to be secured by strength, an Australian will naturally ask whether a federation would really tend to enhance the Australian power. In the first place, both the reality and the appearance of strength would be secured to a United Australia by the mere force of her wealth, and the extent and character of her population. I hold this argument to be incontestable. We are far too apt to judge a nation's strength as a combatant by the extent and the efficiency of her military forces. There could be no graver mistake, nor one which foreign statesmen are less likely to make. True, the mistake has been made, and the United States of America, which was the subject of the experiment, has afforded a useful object lesson. Of course it would be idle to enter a plea for the abolition of defence forces. With the weapons of warfare at the command of the modern combatant, incalculable harm may befall a nation which is unprepared for attack. It is sufficient to emphasise the fact that the oppression of a nation, great by her wealth, great by the intelligence, the enterprise, and the courage of her citizens, must ever be a work of stupendous difficulty. No foreign statesman will lightly undertake it; no foreign state will easily effect it.

(b) Organi-  
sation of  
forces.

In the second place, a United Australia would be strong by the increase in numbers and efficiency of her fighting forces. Leaving England for a moment out of consideration—and the state of helpless de-

pendence on England is a condition which Australians should not regard with resignation—the unorganised condition of Australian military forces must invite the invasion of foreign states. In the event of actual conflict, the helplessness which was its occasion would have further consequences in the shape of humiliation and defeat.

A United Australia would also be strong by virtue of the wisdom of her rulers. It cannot be necessary to support this statement by an appeal to a remote past, or by dwelling upon the extent to which modern wars might have been avoided but for the want of wise and strong statesmen. It is enough to direct attention to the power of a federal union to prevent this evil. The choice of men would be far wider; and a stronger class of aspirants would be tempted by the obligations, the honours and the possibilities of federal statesmanship. For both these reasons, the government which would represent a federated Australia would be more able, more consistent, and more judicious in the control of its foreign policy. (c) Wiser rulers.

To the foregoing aspect of strength, one may be added, less obvious but no less important. I allude to the strength which comes of the conviction of power—power to resist, and, if need be, to fight and to conquer. No people were ever truly great, and no people ever *could* be truly great who were unsupported by the abiding sense of their majesty as a united nation. But Australians cannot hope to obtain this sense as a group of separate colonies, almost wholly dependent for protection upon the navy of a European Power. (d) Conviction of strength.

The conviction of strength cannot thrive on a soil so ill-prepared. If the understanding is to be convinced, if the imagination is to be appealed to, there is need of a real, visible organic union.

Is union  
necessary  
to secure  
external  
peace?

If we take the arguments just mentioned, it is easy to see in what ways a union of the Australian people must lessen the probability and the evils of foreign aggression. Nations, like individuals, offend with discretion. We may therefore turn from the adequacy of the proposed means to discuss the question of their necessity. May there be no other and better way to secure peace? Can *any* be conceived? A divided Australia must necessarily mean no common plan of defence or attack, no common organisation of naval and military forces, and no happy conviction in the several colonies of certain assistance in case of external attack. If one colony were invaded, excuses real or false would be advanced by other colonies as a reason for not coming to her assistance. The sense of isolation, the parochial sense of self-protection at all costs, possibly the spirit of rivalry, possibly even the threats or the promises of the invader, would combine to encourage an attitude of neutrality in the colonies which were not directly interested. For such evils there seems to be only one sure remedy, the formation of a common political organisation for the whole Australian people.

### PROSPERITY

Conditions  
of pro-  
sperity.

A country may be deemed prosperous when it is making the most of its opportunities. How does

Australia stand in this respect? Great and undoubted are its opportunities; are they embraced? The most sanguine would not answer this question in the affirmative. The waste of energy which results from disunion is too apparent to escape the most casual observation. We may first regard the subject from the point of view of internal relations, and consider how far the present political and industrial machinery attains a fair level of efficiency. If that machinery is to be satisfactory, it should achieve the greatest possible results for the least possible expenditure of energy. How far is this object attained?

One of the most familiar facts of our day is the economic efficiency of co-operation. Unity has always meant strength; but unity has not always been practicable. Such industrial unities as the modern company are essentially the creatures of modern civilisation. Their advantages and the possibilities of their future are still indifferently appreciated. But Nature is teaching its lessons in its own way. Just as primitive groups of men were taught the lesson of political union by the stern instrumentality of barbaric warfare; so, in the modern state, the advantages of extensive co-operation in the sphere of industry are being enforced upon our notice by the keen and unremitting strife of industrial competition. Gradually we are learning to detect the evils of duplication and inevitable inefficiency involved in the older system of individual proprietorship. If we look around us we see the signs of industrial co-operation on a vast scale. Competition

Progress  
and com-  
bination.

and the increased complexity of human life are inexorable. We must not suppose that this economic movement has no political significance. From a commercial point of view the state is but a vast company; the larger that company is, *consistently with the requirements of a real and not merely an artificial unity*, the greater are the possibilities which lie before it. The constant differentiation of special organs to meet new needs has become more than ever an essential condition of political progress. But as these needs have increased in number, it has only been possible to keep pace with them by means of larger and larger combinations. We have only to think for a moment of the United States, with its Agricultural Department, which alone employs 10,000 persons, engaged at home and in foreign countries in the compilation of statistics respecting the area and condition of crops, the cost of transit, the condition of foreign markets, and the prices of labour. And this department is but one of several, all directed to securing a greater economic efficiency by saving the nation from the evils of misdirected effort. In comparison with this state of things the present condition of Australia is deplorable.

Principles  
of com-  
mercial  
progress.

If we pursue the question of economy of force a little further, three elementary principles engage our attention. It is clearly desirable that *no more* force shall be applied to an end than is absolutely necessary; that yet *sufficient* force must be applied; and that the force must be carefully *exerted in the right*



*direction.* Yet each of these principles is violated under the system of disunion.

More force is used for certain purposes than is (1) *Excess*, required. The cost of government is ruinous. For every department of administration each colony claims its complete system of officials. To some extent this evil must remain after a federation has been effected. But there could be no comparison as to the waste under the two systems. In affairs of common concern, the administration of the commonwealth would supersede the several administrations of the provinces. For a striking illustration of the way in which saving might be effected one has only to turn to the postal department. The luxury of all this surplusage has to be paid for. Nothing can be more certain; few things can be less satisfactory.

With respect to this aspect of the question, one should also observe the rate of interest payable on state debts. That rate is determined by the inadequacy of present securities. There is, of course, no other reason for the higher prices which Canadian stocks command in the home markets than the fact of Australian disunion. On this head alone the annual loss is enormous. *Eg., interest on debts.*

The advance of prosperity is often impeded by the inadequacy of the forces at disposal. A great country, even more than a great mine, needs a generous as well as a capable government. But at present this is often impossible for mere want of funds. How different must be the situation of a united Australia! Great works of commercial enterprise, quite beyond (2) *Inadequacy.*

the unaided powers of the several colonies, would be brilliant possibilities for the commonwealth.

(3) Mis-  
direction.

The evils to which I have alluded are familiar, but they are less serious than the evil about to be considered. It is unfortunate when the forces at disposal are inadequate or are applied in excess; it is disastrous when there is a *persistent misdirection of force*. Yet such an evil is inevitably attendant upon the system of disunion, and finds a most forcible illustration in the spheres of production and exchange. If wheat is more easily and cheaply produced in one colony and fruit in another, nothing could be more fatuous than for each of those colonies to insist upon producing its own supply of wheat and fruit! Yet this kind of thing is happening all around. As a result of protective systems, each colony strives to produce its own commodities, quite disregarding the circumstance that in another colony the same results can be attained with much less labour. There is only one way to avoid this enormous waste. The state must follow the guidance of Nature and allow commodities to be produced where the conditions are most favourable. In the processes of distribution the same fatal hostility may be seen. If a people are to make the most of their opportunities, it is clearly necessary to abolish artificial restriction on the carriage of produce to markets. Here, as elsewhere, the great object should be to effect a constant reserve of force, a prudent expenditure of energy, so that each result represents the possible maximum. Nothing must be lost on the way. To reject the quickest, shortest, or

easiest route, because it lies through another colony, is to waste the resources of the continent. So far as the producer himself is concerned, the difficulties are partly overcome by the competition of hostile railways. But nothing can be more certain than the fact of waste, and the necessity imposed upon the community of paying for it. "Railroads," said a late member of the South Australian Government, "have been built to compete against rivers, and to haul produce and stores over unnecessary distances to gratify the greed of rival cities and ports. Australians pay the bill for all this waste. If the law of cheapness and least resistance were allowed to prevail, Australia would be enriched by the vast sums that would be saved by the abolition of cut-throat tariffs and political and rival railways."

There is a further point. Few people realise the value of *an Australian market for Australian industries*. Intercolonial free trade means the creation of a new market capable of justifying new industries, of developing many industries already in existence, and of preventing or alleviating those congestions of trade which at present are so fatally common. Australian merchants have already had occasion to observe the extent to which large investments of foreign capital have been kept away from the colonies by the circumstance of a limited market, the actual existence of border duties, or the reasonable fear of their future imposition.

Industrial  
aspect.

If we consider the question of prosperity from the point of view of external relations, the cause of union

Conditions  
of pro-  
sperity in  
relation to  
external  
States.

is strengthened by the support of additional arguments. Union would enable Australia to protect its own commerce from destruction by force of arms, or from injury by the imposition of hostile tariffs. It would, perhaps, indicate an excess of confidence to rely in such matters upon the great power and the favourable inclination of the mother country. The power, great though it be, would be materially aided in the protection of Australian interests by the establishment of an Australian federal navy; the inclination, though always favourable and often generous, has not invariably proved itself so strong as to warrant Australians in neglecting an opportunity of strengthening it by exchanging the weak, relatively unreliable, and often inconsistent representations of the several colonies for the representations of a federal commonwealth. But though the power and the inclination of England to help the colonies must be strengthened by their union, I would rather rely upon the argument that Australians should learn to protect themselves. It cannot be thought that, like the degenerate Britons of old, they should be wholly dependent upon the protection of a distant Power, and at the mercy of an invader whenever, from necessity or from policy, the support of their protectors should be withdrawn. But whether they rely upon the aid of Great Britain or are ambitious to protect themselves, the conclusion to which the student is forced is the same. In either case they must be united if they would take a position among the nations of the earth as a power to be reckoned with, to be con-

sulted, to be feared, or to be indulged. "If we continue united," wrote Hamilton, "we may, in a variety of ways, counteract a policy unfriendly to our prosperity. By prohibitory regulations, extending at the same time throughout the States, we may oblige foreign countries to bid against each other for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance to any manufacturing nation of the markets of three millions of people increasing in rapid progression; for the most part exclusively addicted to agriculture, and likely from local circumstances to remain in this disposition."<sup>1</sup>

In connection with the question how far union would promote prosperity by affecting external relations, there is an aspect of the question which I have yet to present; but it is one of great importance. An American writer of to-day, speaking of the industrial competition between the old and new worlds, declares: "Agriculturally, Minnesota, Nebraska and Kansas are already formidable competitors with England, France and Germany. But this is but the beginning. It is but the first spray from the tremendous wave of economic competition that is gathering in the Mississippi valley. By and by, when our shameful tariff—falsely called 'protective'—shall have been done away with, and our manufacturers shall produce superior articles at less cost of raw material, we shall begin to compete with European countries in all the markets of the world; and the competition in manufactures

The dangers of competition.

<sup>1</sup> *Federalist*, p. 49.

will become as keen as it is now beginning to be in agriculture. . . . It will not be long before this economic pressure will make it simply impossible for the states of Europe to keep up such military armaments as they are now maintaining. . . . The economic competition will become so keen that European armies will have to be disbanded. But this involves the forcing of the great states of Europe into some sort of federal relation."<sup>1</sup> If Australians would survive in the keen economic struggles which lie before them they must adapt their organisation to meet the new necessities which the progress of the world imposes. Sooner or later they will have to face the alternative of union with its strength and a great position in the world's economy, or disunion with its weakness and a subsidiary place among the nations of the earth. It is surely desirable to meet this dilemma at once, and to take the step which alone can ensure that full measure of prosperity to which a beneficent Nature has invited them.

### HONOUR

The point  
of view.

The considerations which are now to be submitted to the reader's judgment will be rejected with disdain by those who regard the glory of a country as a matter of sentiment, and who look upon the rise of a nation, in so far as it involves no increase of material comforts, as an event without special interest or meaning. It is not to critics so severe that the following arguments are addressed. Rather do I

<sup>1</sup> Fiske, *American Political Ideas*, p. 148.

speak to those who would hold that there is something higher in life than logic, or than the calculus of profit and loss; who would believe that the full development of the individual is only possible where the national life is strong in its influence upon the popular imagination, and who therefore recognise the necessity of agencies capable of elevating and sustaining the tone of social and political life.

Where may such agencies be found in Australia? This is a question which I should contemplate with despair but for a conviction which I do not hesitate to state—the conviction that the achievement of a common organisation for the various Australian peoples must be followed by a recognition of their essential unity, and by an inspiring faith in the splendour of the future which must lie before them.

The federal ideal.

In the records of human history there is no page devoid of interest, nor any period from which we can derive no instruction. If, for example, we examine the genesis of political society our attention is arrested by a fact of striking and immediate significance—the essentially moral or religious character of the bonds of social union. To whatever extent social aggregation may have been promoted by the fears or the motives of hostility, the permanency of political organisation was only rendered possible by the influence of religious sanctions. The spell which the primitive priest threw round the notion of political duty has never wholly left us. The crude conceptions of a primitive theology have been largely superseded by the more refined interpretations of altruism and Christianity.

The value of national ideals.

But we have still before us the great fundamental fact of a non-utilitarian conception of political duty; our obedience to the civil authority is still largely determined by religious considerations, by a sense of the sacredness and the majesty of the state. If this were not the case, the force of the legal sanction would be weaker, the general character of the social tone lower. Similar results would follow in the absence of all national ideals. To appreciate the truth of this statement we have only to reflect upon the influence of patriotism in times that are past. The power of that sentiment to raise a nation by improving the efficiency of its fighting forces was but the most elementary part of its saving power. It caught men in its strong embrace and they became capable of great and heroic deeds, strong of purpose, generous of toil, magnanimous in conduct. The same consecrating power may be observed in the influence of loyalty during the Middle Ages. That ideal did far more than contribute to the realisation of social order. Under its mysterious spell the whole character of mediæval life was transformed. Art and literature, thought and feeling—everywhere the evidence of its benedictory touch was manifest.

I believe that it is just the absence of such ideals which is the special danger of the Australian colonies. What are the evidences of this danger? Is it not possible to discover a remedy apart from union? Would union go far to promote new ideals? Such questions deserve immediate consideration.

In writing for those already acquainted with



Australian life, the want of national ideals and the indurating influence of this deprivation upon the Australian character would be subjects too familiar to require proof and too melancholy to invite rehearsal or illustration. The English reader, however, will be more exacting, and I will briefly refer to two special aspects of the question—the commonness of the social tone and the almost universal prevalence of a spirit of parochialism. The latter of these evils is not peculiar to Australian life; but it has attained there a magnitude which, if not unjustifiable by the exigencies of colonial development, is at least pernicious in its present influence upon the Australian character. Under Austral skies life should be free and independent, disdainful of the petty barriers of purely artificial boundaries. Instead of this, the spirit of provincialism is everywhere conspicuous. The mind which should be gloriously open to the inspiration of the race proves itself often incapable of looking beyond the borders of a colony—is perhaps confined in its enthusiasm to the material prosperity of a district. The responsibility of the Parliamentary representative to his colony is seldom enforced by the electors and often ignored by the members of the Legislatures. As between the separate colonies, there is little endeavour to arouse a sense of that common life and those common responsibilities which community of race, territory and interests renders so easy and so desirable.

Depend-  
ency of '  
Australian  
ideals.

Parochial-  
ism.

The provincialism of which I have been speaking has further consequences. Political life generally is

The social  
tone.

marked by a certain commonness of tone. Can we wonder at this? "I prefer," said the noble Fénelon, "my family to myself, my country to my family, mankind to my country." In Australian life, the reversal of this order is perhaps more than ordinarily conspicuous. There are no national ideals to fire the enthusiasm and to impart a generous ardour to the imagination. Men are free and independent, but they are not loyal and magnanimous.

Inadequacy of existing ideals of race and empire.

While the want of national ideals is too apparent to escape notice, prudence requires a careful consideration of the question whether the creation of such ideals cannot be effected without undertaking the achievement, and incurring the responsibilities, of political union. The ideals, either of the British race or of the British Empire, might be thought capable of impressing the imagination by the splendour of the past or the proud pre-eminence of the present. Yet experience does not encourage such hopes. The history of the mother country does not *inspire* Australians. It appeals to them rather as the history of the race from which they spring than as the history of their own race. Nor does there seem a disposition to draw strength from the ideal of empire—a fact which illustrates the extent to which civilised man is governed, in his ideas and in his conduct, by the conceptions, habits, and institutions of remote times. The state in its origin was an organised body of men occupying a definite territory. The human race has never outgrown this territorial conception of the state; nor is it possible to obliterate, in their influ-

ence upon the imagination, the existence of intervening oceans. It is probable that the future will witness great and far-reaching changes in the character of our ideas, and that, under the expanding sense of unity and power, it will be possible to realise a federation of the English-speaking peoples. But such glories are not reserved for our time. Even the federation of the present British Empire would but inadequately achieve the particular ends at present under consideration. Man has still to overcome the limitations of the territorial conception before he can gain a great inspiration from the imperial idea. "I think nothing is to be hoped for you," said Thoreau, "if this bit of mould under your feet is not sweeter to you than any other in the world." "Nothing," said Ruskin, "is permanently helpful to any race or condition of men but the spirit that is in their own hearts, kindled by the love of their native land." Such sentiments represent the present capabilities of the Australian mind far more truly than that imperial idea which is the ambition of the few, but can only appeal to the many as the result of a gradual broadening of sympathy in the development of which the realisation of an Australian federation must form a very conspicuous factor. At present it is for Australians to realise that the destiny of a great continent rests in their hands; the fact has never yet appealed to their imagination, nor ever can under the *régime* of artificial boundaries, the pathetic pettiness of intercolonial jealousies. I believe that nothing but a political union can give them the ideals which they so greatly need to broaden

their sympathies and to refine and elevate the whole tone of their political life.

Adequacy  
of the  
federal  
ideal.

Hitherto the argument has been negative rather than positive. But the proved inadequacy of present ideals does not establish the efficacy of a federal union. *Will* the federation of Australia broaden Australian sympathies? *Will* it refine and elevate the tone of political life? The answers to these questions must depend upon the proof of worthiness. No union can save those who are unworthy of the union. Yet it is impossible not to look upon the issue of federation with some confidence, when we remember the arguments by which expectations may be supported. I can do no better, in this connection, than quote the eloquent language of an ardent Australian federalist. "The populations of the several Australasian colonies," said Mr. Justice Clark, "are located in very similar physical environments, but there is a sufficient difference in those environments to co-operate with the tendencies which separate communities possess of exhibiting varieties of type, and so to produce distinctive features in the social and intellectual life of each of them. Proximity and frequent intercourse extend, in a large degree, to the people of the whole of Australasia the characteristics primarily manifested by particular colonies, and we have consequently in Australasia a distinctively Australasian type of life and character which, in successive generations born on Australasian soil and nurtured under Australasian influences, will become more and more emphatic, and will more

clearly distinguish the native Australasian from his contemporaries in England and America; and it is this distinctively Australasian type of life and character which will be our contribution to the multi-form civilisation of the world. But, in order to make that contribution complete and perfect, the populations of the several colonies must be included in one political organisation which will increase their mutual intercourse and co-operation, and impart to them an abiding consciousness of their common nationality and destiny. The influences of an inclusive political organisation upon the intellectual and moral development of its component communities may be subtle and difficult to trace and to define, but they are real and powerful, and the nascent nationality of Australasia would rapidly strengthen and expand under their operation. Every one of us who was born on Australasian soil may well be proud of our British origin and traditions; but Australasia is emphatically and peculiarly our country and our home, and our highest duty to our children and to humanity is to do all that is within our power to ensure the development and maturity of the nation which Providence has appointed us to create. The feeling which we describe as patriotism may undoubtedly exist in a high degree in regard to a centre of associations and traditions which, as a city or a province, is a part only of some larger political and geographical aggregate; but its highest manifestations are not invoked until it embraces all that which, under the name of nation or country,

gives to us our distinctive name and place among the other nations around us. It is truly a glorious privilege throughout the civilised world to be able to say, 'I am an Englishman.' It has become almost an equal privilege to say, 'I am an American.' Why should it not become also in due time a similar privilege to say, 'I am an Australasian'? But before that day can come Australasia must become politically, as she is now geographically, a unit."

The United  
States.

Such arguments derive confirmation and illustration from the approved precedent of the United States. For more than a century those States have enjoyed the privileges and survived the responsibilities of a federal union. In the long run, their peace and their prosperity have been assured. But what of the spiritual aspect of the Union? This is a difficult question, and one which requires for its settlement a wide experience of the American people. But it is possible to refer with some confidence to the judgment of the highest representative of American thought—one who united, with the wisdom of the sage, the insight and inspiration of the prophet. "The highest separate personality of these States," writes Whitman, "will only be fully coherent, grand and free through the cohesion, grandeur and freedom of the common aggregate, the Union. . . . This is what makes the importance to the identities of these States of the thoroughly fused, relentless, dominating union—a moral and spiritual idea, subjecting all the parts with remorseless power. . . . Indeed, what most needs fostering through the hundred years to

come, in all parts of the United States—north, south, Mississippi valley, and Atlantic and Pacific coasts—is this fused and fervent identity of the individual, whoever he or she may be, wherever the place, with the idea and fact of American totality, and with what is meant by the flag, the stars, the stripes. We need this conviction of nationality as a faith to be absorbed in the blood and belief of the people everywhere—south, north, west, east—to emanate in their life and in native literature and art. We want the germinal idea that America, inheritor of the past, is the custodian of the future of humanity. Judging from history, it is some such moral and spiritual ideas appropriate to them (and such ideas only) that have made the profoundest glory and endurance of nations in the past.”<sup>1</sup>

### THE FEDERAL FORM

Since Australian union will ensure peace, promote prosperity and advance honour, the motives of self-interest and patriotism are engaged in its defence, and the alternative proposals for its realisation deserve the attention, and should receive the verdict, of every patriot. The union of the Australian colonies might be effected in one of three ways, according to the authority conferred upon the government of the Commonwealth. That authority might embrace the whole conduct of the private citizen, in which case the governments of the several

Different  
methods of  
union.

<sup>1</sup> On Nationality.

colonies would cease to be political and become merely municipal; or it might embrace a defined portion of the citizen's conduct, in which case, outside that sphere, the political authority of the governments of the several colonies would be retained; or again, it might embrace no portion whatever of the citizen's conduct, in which case the governments of the several colonies would retain a full control over their respective citizens, while subject, in the exercise of at least some of their powers, to the advisory superintendence of the government of the Commonwealth. Such distinctions may be more briefly indicated by the terms Unitary State, Federal Union, Confederacy. These forms severally deserve attention.

(1) The  
Unitary  
State.

In the Unitary State, as we have seen, the authority of the government of the united Commonwealth is all-embracing, and the governmental control of the several provinces is completely merged. There is much to be said in favour of this form, but one very simple argument completely disposes of its claims upon our consideration. It is *impracticable*. The separate colonies would not consent to a surrender of their individuality. Minds of a certain order may feel an instinctive preference for this form of union; but the preference proves an obstacle to its own realisation when it fosters a spirit of opposition to those intermediate steps which must precede the stage of complete unification. Policy, no less than patriotism, dictates but one course of conduct to those who are disposed to advocate the claims



of the Unitary State. They should accept the federal form as a first instalment, and look for an ultimate realisation of their ambitions to the centralising influences which federation renders possible and encourages.

Under a Confederacy, the constitution and powers of the several colonies would remain intact, and the authority of the Commonwealth, however majestic might be its form, would in reality be subordinate to the several colonial Legislatures. No jural relationship would exist between the government of the Commonwealth and the citizens of the several colonies; laws would have no binding force on the private citizen until sanctioned or enacted by the authority of local Parliaments. Such a union hardly deserves the name. Its inadequacy is abundantly illustrated by experience, and must be apparent to the common sense. Peace cannot be secured by a union where the central authority enjoys no power over individuals, and so is compelled to undertake, for the coercion of recalcitrant states, the maintenance and dangers of a standing army. There can be no full measure of prosperity when the authority entrusted with common interests enjoys so limited and so precarious a power. Nor can the evils of provincialism be overcome, or a patriotic and national spirit be developed, when the relationship which exists between the central authority and the individual citizen is remote and indirect. Such facts, while they must be suggested by common sense, are at the same time in complete agreement with the conclusions to which

(2) The  
Confeder-  
acy.

an historical investigation must lead us. This aspect of the question very fully engaged the attention of American statesmen at a time when the imperfections of a confederacy had been impressed upon the imagination by the disagreeable instrumentality of experience. The verdict of the American leaders derives an additional significance from the fact that the principle of legislation for states in their collective capacity did not run through all the powers delegated to the Union. What, then, was the conclusion to which these leaders were led by their own experience and that of other countries? "Experience," wrote Hamilton and Madison, "*is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred.*" The important truth which it unequivocally pronounces in the present case is, that a sovereignty over sovereigns, a government over governments, a legislation for communities as contradistinguished from individuals; as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity, by substituting *violence* in the place of *law*, or the destructive *coercion* of the *sword* in the place of the mild and salutary *coercion* of the *magistracy*."<sup>1</sup>

(3) The  
Federation.

The condemnation of the Unitary and Confederate forms of government, as impracticable or as inadequate, compels us to examine the claims of a third possibility—the intermediate form of government, popularly known as the Federal. The novelty of this form consists in the dual citizenship of the subject,

<sup>1</sup> *The Federalist*, ed. 1888, pp. 176, 177.

who owes allegiance, on the one hand, to a provincial or state government; on the other hand, to a central authority empowered to deal with matters of common or national concern. This is the only form of union to which Australians can look with either confidence or hope. It possesses much more than the negative virtue of escaping the imputations to which alternative forms are exposed. It is not only practicable and adequate, but it enjoys certain special excellencies which entitle it to rank as one of the very highest forms of government which the ingenuity of man has devised. It is practicable, because it affords a means of uniting the colonies under one common government without sacrificing the separate existence of local Parliaments and local patriotisms. It is adequate, because it gives to the national authority sufficient powers to effect the great objects of union. Finally, regarded as a form of government to be applied to a vast territory, it offers certain very special advantages. The obligations of a dual citizenship exercise a highly educative effect upon the voter, who becomes a citizen of the Commonwealth while remaining subject to the stimulus imparted by the interests and activities of local self-government; and the division of governmental powers between central and local authorities, while gaining the advantages of union where union is desirable, affords exceptional opportunities for developing a vast and varied territory by respecting the autonomy of localities wherever that autonomy is required by local diversities of climate, soil or population. Federalism thus consecrates two distinct

principles : on the one hand is the sacred principle of state independence within a prescribed sphere of action ; on the other hand is the sacred principle of the supremacy of the Union in matters outside the sphere of state control. To harmonise these principles, to secure their eternal inviolability on a basis of co-operation rather than of coercion, is the problem which Federalism alone can solve.

### A PRESENT FEDERATION

The plea  
for delay.

A very important question remains for consideration. It is possible to admit the advantages of union while denying that the time is ripe for attempting their achievement. The citizens of the several colonies have their own peculiar difficulties to consider ; but, speaking generally, the common resource of hostile argument is to admit the advantages of federation, while postponing the period of their realisation. The absurdities of the present system are too palpable for open opposition, and the anti-federal spirit is constrained to express itself in a plea for indefinite delay. It may be of some service to analyse this plea, since hostility is never more dangerous than when, in the guise of prudence, it appeals to procrastination. Australians should guard themselves against those who advocate a continuance of present evils and a neglect of present opportunities, and who by their opposition must increase the difficulties, if they do not imperil the achievement, of union in the future.

The plea for postponement is often based upon the

weakness of federal sentiment ; yet it is surely unreasonable to expect a federal sentiment before federation itself is a realised fact. Only among the leaders of thought can we look for a sentiment belonging to the period which follows union rather than to the period which precedes it. If federation is realised as a fact, the federal sentiment will follow when the general conditions are favourable. It is illogical to urge, as an objection to a reform, an evil which it is the very object of the reform to overcome. In community of territory, race and interests exists an all-sufficient basis for that community of feeling which it is the great object of federation to establish.

(1) Want  
of federal  
sentiment.

There are some who would persuade Australia to await with resignation the occurrence of a foreign war. Under the prospects or experience of invasion, men will learn, it is argued, the lesson which they disdain in time of peace. This may be true ; but if true, it is also lamentable. It is almost incredible that a free people should descend to look upon foreign invasion as indispensable to the realisation of domestic reform. The dangers of such a course are palpable. The real advantages of union would be indefinitely postponed. If they were ever realised, it must be at a time of great strife, and under conditions which would preclude a calm and dispassionate settlement of opposing claims. In the event of war, Australians would be in the position of having neglected past opportunities, of being very inadequately prepared for existing dangers, and, finally, of handing on to posterity a legacy of disputed questions certain to

(2) The  
existence  
of peace.

lessen the advantages, if not to imperil the cause, of the union which they desire. It is difficult to entertain so low an opinion of the nascent nationality as to believe it capable of contemplating, in a spirit of unworthy inaction, evils so extremely prejudicial to its future.

(3) Necessity of sacrifices

There are some who, while confessing the reality of advantages, are so impressed with obvious sacrifices that they oppose the cause of federation, present or future. It must be clear that where sacrifices are not necessarily incidental to the federal form of government, time may be trusted to work justice. To suppose a federal Parliament capable of sitting with folded hands while gross and palpable injustice is being done, indicates a mean and ungenerous spirit rather than a power of foretelling the future. But where the sacrifices *are* necessarily incidental to the federal form, one is naturally led to inquire how far their existence in other Federations has proved the undesirability of federal movements. The inquiry would hardly detain an open and candid mind for long. We do not hear of the citizens of the existing Federations of Germany, Switzerland, the United States and Canada regretting the step they have taken. They count the gain and the cost, and know on which side the balance rests. Yet no one of the countries referred to could claim that homogeneity of population which is to be found in Australia, and which must ever constitute the chief condition of successful federation.

(4) The Commonwealth Bill.

There is another class of objectors who base their opposition upon the character of the Commonwealth

Bill. *Some* will not have federation because the Bill does not include provisions, the very presence of which must have secured its overwhelming rejection. Others allude to really grave difficulties, such as the financial clauses of the Bill—clauses necessarily tentative, and dealing with questions the ultimate decision of which is impossible until we are supplied with data which are only procurable when federation has been realised. The real question in this connection may be briefly stated. Can the federal Parliament be trusted to do reasonable justice between man and man and between colony and colony? Or can it not? As for the purely constitutional questions of the Bill, there are necessarily many questions for discussion; and it is incredible that the settlement of each and every one of these questions should be effected in such a way as to satisfy the ideal of any one man. Probably in view of the fallibility of the individual, a persuasion of the perfection of the Bill might arouse the suspicion of the impartial. If any individual would delay federation until he can approve of the Bill in every particular, his position must be described as one of uncompromising hostility. The true federalist will recognise the absurdity of insisting upon a condition so unwise, and will praise or condemn by reference to a broad and impartial view of the Bill as a whole. There are many—and these, perhaps, not the least wise—who will prefer the judgment of the Federal Convention to their own, and will undertake to vote for the Bill which has received its final sanction. The advantages of federal union are clear; the constitutional ques-

tions involved in the Commonwealth Bill are complicated and difficult, and require for their discussion the experience, the skill and the wisdom of a select Assembly. A citizen who is assured that federation is desirable, might be excused for displaying a generous confidence in the Convention which he helped to constitute.

Appeal for  
a present  
federation.  
(1) Precedent.

There are, I conceive, two very special arguments which support, if indeed they do not justify, the cause of present federation. In the first place there is the argument from precedent. Probably no impartial person would assert that the American States in 1787, or the Canadian colonies in 1867, were premature in the work of federal union. "This much I have no hesitation in saying," wrote the Marquess of Dufferin, "that in the case of Canada, her increased prosperity, self-respect and prestige, as well as the sentiment of her nationality, have been immensely stimulated by federation. Nor throughout the six and a half years during which I presided over the government of the Dominion, did the union which had recently been brought about seem to work in any other way than to the advantage of every member of it." Yet the Australian colonies are advanced beyond the requirements which either of the foregoing precedents would warrant us in demanding, whether we employ the tests of commerce, of population, of internal development, or of the capacity for self-government.

(2) Danger  
of obstacles  
increasing.

In the second place the postponement of union must increase certain difficulties in the path. The disturbance of certain vested interests, which come



like a legacy from the past, is already felt as a serious obstacle to federation ; it is an obstacle whose terrors time can only increase by adding to their just occasion. The position reminds one of the undue profits of the middleman. To all proposals for reform the middleman demurs. "The organisation of society has made my existence possible, and even necessary. Acting in the faith of that organisation, I have acquired a vested interest in the profits which I make." "My dear friend," answers the representative of society, "you are quite right in much of what you say as to the past. But in the present things have come to an issue. Either *you* or *society* must yield, and it is better that you should suffer, if need be, than that society should go to the wall. National progress must not be impeded ; the happiness and prosperity of the nation must not be unreasonably and eternally sacrificed for the interests of a class. You, my friend, must find a new channel for your activities. If you have any regard for your country you will not oppose a reform which is absolutely essential to its welfare." The line of argument is dangerous, but there are times when it is justifiable. The union of the Australian colonies cannot be effected without prejudicially affecting the circumstances of certain individuals who have acquired an interest in the continuance of present evils. Many of the individuals so affected have generously supported the federal cause. In answer to those whose patriotism is unequal to the occasion, it is only possible to refer to a fact of alarming significance. The obstacle to

union, arising from the necessity of interfering with vested interests, is an obstacle which grows greater and greater every year. In this respect it is quite true to say, as Mr. Garran does say, that every step not in union is a step further apart.

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## SUMMARY

Summary.

If we review the ground which has been covered in the present and preceding chapters, we see that modern politics falls into three grand problems—the problems of expression, of character, and of union.

The problem of expression.

The inadequacy of the present means for expressing the popular will threatens to inaugurate an era of direct democracy. The alternatives which lie before the reformer are to abolish the representative system or to modify its form. The reasons which support the latter alternative have been stated in previous chapters, and find partial expression in the formula that good government requires the directing influence of specially endowed minds. The great task of the ages has been to secure a due compromise between the principles of authority and liberty; between submission to the guidance of leaders and the display of an individual independence of judgment and conduct. Direct democracy offers no reasonable hope of achieving a useful compromise between these conflicting principles, and should only be advocated by those anti-democrats who hope to secure from reaction what they despair of obtaining by gradual

evolution. The real hope of democracy is to be found in a new and improved system of representation, and it is for this reason that I prefer the Hare system to the referendum. Both of these proposals offer much in the way of correcting present evils, but the one consecrates the principle of direct democracy, whilst the other seeks to save representative democracy by adapting it to new social conditions.

When the reformer turns to consider the problem of character, he finds a general agreement up to a certain point. If public opinion is to be improved it must be educated. Beyond this point a great difference of opinion exists. My own view, already expressed with some fulness and not, it is hoped, with too much confidence, is that the peculiar need of our time is a more popular and more systematic study of history. History admits of an attractive treatment, throws light upon particular problems of politics by showing how they have come to assume their present form, broadens the vision, deepens the sympathy, and serves to stimulate a patriotic regard for the national welfare. "The best that history gives," said Goethe, "is the enthusiasm which it arouses."

The problem of character.

The third of the grand problems into which modern politics may be divided has mainly arisen from the modern inventions which have tended to diminish the importance of distance, and so to render possible the formation of large political aggregates possessing all the characteristics of organic unity. Experience has clearly demonstrated the merits of the federal form of union as a means of giving political expression to the

The problem of union.

new conditions. The chapter in which the merits of a practicable federation were stated and exemplified, was designed to prove the vast significance of the new movement as a means of promoting peace, of ensuring prosperity, and of affording new ideals by whose saving influence men might be preserved from parochialism, and aroused to a more elevated conception of political privilege and responsibility.

Conclu-  
sion.

The new democracy is thus not a fact but an aspiration. It is an aspiration which looks forward to the realisation of great states where the public opinion will be more capable, more enlightened, more active and more tolerant; where the means for the expression of that opinion will be such as to impose no other restraints upon the popular will than are proved by reason and experience to be absolutely necessary for the popular welfare; and where a reasonable and practicable compromise will be effected between the grand ideals of submission to the wisest on the one hand, and of individual independence on the other. Time may prove such aspirations to be Utopian. But if this should happen, which God forbid, I believe the cause of democracy will be placed beyond the hope of redemption.

#### NOTE

It is possible that the Australian people will have federated before this volume has passed through the press. Such an event, while rendering the form of my arguments inappropriate, would not affect their significance for other countries, which have the same problem to solve.

## APPENDIX A

### THE NEW AUSTRALIAN CONSTITUTION

THE history of Australian federation would appear to fall into three periods, not indeed separable with logical precision, but yet corresponding to the realities of colonial development. Of these periods, the first was marked by the rise and growth of isolated settlements which required freedom of local development rather than control by a central authority. Thus the colony of New South Wales had originally included the greater part of the Australian Continent. But demands for local self-government resulted in successive territorial restrictions. South Australia was separated in 1837, Victoria in 1851, and Queensland in 1859. The process of decentralisation was of course the reverse of federal; but was justified by the conditions of immaturity.

Historical  
origin of  
the federal  
movement.

The seventh decade of this century marked the dawn of the second period in Australian history. The development of the *colonies* had prepared the way for the conception, though not the realisation, of the *Commonwealth*. It is true that the subject of Australian federation had previously received some consideration from English and Australian statesmen. But, as an Australian movement, it only became a question of practical politics about this time. Colonial conferences were convened, federal resolutions were passed,

The second  
period in  
Australian  
history.

and the idea of an Australian commonwealth gradually acquired force over the popular mind. Finally in 1888; under the fears of French and German aggression in the Pacific, an Australasian Conference succeeded in passing a Bill to establish a Federal Council. Unhappily, the authority of the newly constituted body only extended to the colonies voluntarily choosing to send representatives and even for these colonies legislation was strictly limited to such subjects as were prescribed in the Act of the Imperial Parliament, and were voluntarily submitted to the Council from time to time by the vote of provincial Legislatures. The strict limitation of these subjects, and the absence of any executive or judicial authority, were limitations sufficiently real and palpable to draw the Council into disrepute, and to create the impression of an institution which was to be flattered and indulged, but not to be taken too seriously. From the first New South Wales persistently refused to take part in its debates.

The third period.

The origin and history of the Federal Council may be said to constitute the second and transitional period in the process of colonisation. The third period includes the present time and may be briefly described as marking the parting of the ways. Centralising influences have been so far successful that it is impossible to deny a readiness for federation; but they have not been able to prevent a comparatively recent and very significant development of vested provincial interests, local patriotisms and separate legislative policies. The coexistence of these conflicting tendencies indicates the arrival of an epoch when it is impossible to say that the colonies are quite prepared for federation; but that if they do not federate, every further step must be a step towards permanent disunion. This is the epoch of great possibilities! The peaceful realisation of a well-reasoned scheme of federation has become possible;

but the very circumstance of colonial development which has rendered federation possible has a future tendency to build up provincial barriers which must for ever prevent federation, or postpone its realisation until, at the menace of some grave external danger, men have learnt to do precipitately what they might have done peaceably. This, the third period in Australian history, was really inaugurated by the inter-colonial Conference held at Melbourne in 1890. That Conference resulted in a Convention of delegates, who were nominated by the separate Australian Legislatures, and drew up, in 1891, a "Draft Bill to constitute the Commonwealth of Australia." "The Convention," writes Mr. Garran, "caught and crystallised into a definite shape the vague, floating ideas which had long been in the air; and it thus afforded, for the first time, a practical standpoint from which to debate the whole subject and upon which to found a national sentiment. In a word, it changed federation from an idea to a formula, from a dream to a policy. The Commonwealth Bill has been criticised from every point of view, and of course there are differences of opinion as to some of its provisions, but the general excellence of its drafting and the statesmanship shown in its construction are universally admitted." <sup>1</sup>

The later history of Australian federation centres round the Bill of 1891. Abandoned by provincial Parliaments, it secured the attention of the press, and, by affording material for discussion, served to stimulate a popular enthusiasm. Few circumstances could be more significant than the growing interest in a measure which the politicians had forsaken. While the question of federation remained speculative and controversial, it had received a Parliamentary support. In proportion as it became a question of burning practical interest there was a tendency on the part of the

The politicians and the people.

<sup>1</sup> Garran, *The Coming Commonwealth*, p. 116.

The  
Federal  
Enabling  
Bill.

politician to relapse into an attitude of indifference or hostility. The further consideration which the subject received at the hands of the several Parliaments must be attributed to the activity of a few statesmen acting in reliance upon a growing popular support. In January 1895, a meeting of Australian Premiers, held at Hobart, drafted a Federal Enabling Bill for introduction into the several Australian Parliaments. Under this Bill, provision was made for constituting a Federal Convention to consist of ten delegates from each colony chosen by popular vote. The Convention was empowered to frame a Constitution, to submit that Constitution to the consideration of provincial Legislatures, to reassemble and revise the Constitution in the light of any amendments that might be suggested, and finally to submit the result for approval or rejection by the popular vote. In the event of an acceptance of the Constitution by the people of no less than three colonies, the Legislatures of those colonies might apply for the ratification of the Imperial Parliament. With various modifications, the Enabling Bill was passed by five colonies, and the Convention met and discharged the duties which the Bill had imposed. The new Constitution was accepted by large majorities in Victoria, South Australia and Tasmania. Unfortunately, although the Constitution was accepted by a fair majority in New South Wales, the votes recorded in its favour were less than the Federal Enabling Act of that colony had required. The result was to postpone federation. Early in 1899, however, a Conference of Australian Premiers met for the purpose of making such changes in the Constitution as would render it more generally palatable to the electors of the parent colony. The Bill, as modified at this Conference, has received legislative sanction in New South Wales and other colonies, and has been approved by a second referendum. English



readers may perhaps be interested in a brief account of a Bill which will probably soon come before the Imperial Parliament, and which represents the labours of a Constitutional Convention in the closing years of the Nineteenth Century.

Federal government implies the coexistence of central and local governing bodies, respectively empowered to deal with matters of common and provincial interest, and exercising, within the limits prescribed by the Constitution, a mutually independent authority. Under the Commonwealth Bill, the governments of existing colonies (or States, as they are described) are left intact. These may therefore be dismissed from notice, and if federation had meant no more than such delimitation of their powers as union rendered imperative, the problems which taxed the ingenuity of Australian statesmen must have been relatively few. But it was necessary to establish a central authority; and the coexistence of central and local governmental systems required the establishment both of a tribunal to arbitrate in cases of real or supposed conflict, and of a revising authority above central and local governing bodies, empowered to rearrange the disposition of governmental powers when occasion might demand. Moreover, in every existing Federation, the federal character of the Union is indicated in the organisation of the central authority by numerous devices which aim at the protection of the interests of the several States as distinct and independent entities.

In constituting a central authority, the Convention adopted the division of governmental departments into Legislative, Executive, and Judicial. The Federal Legislature is to consist of a Governor-General and two Houses of Parliament. With respect to the office of the Governor-General, two questions might seem to have deserved consideration. Was the appointment to be made by the Queen

The Commonwealth Bill 1898.

General character of the Federal Legislature

The Governor-General.

or the Australian people? Was the right of veto to be disallowed? But neither of these questions was regarded as within the sphere of practical politics. It was not proposed to make an independent political society of the Australian Commonwealth, or in any way to weaken the bonds which exist between the mother country and the colonies. Accordingly the appointment of the Governor-General was vested in the Crown; and to the Queen and her representative were ascribed those powers of veto which have hitherto existed over the legislation of the several colonies. Such provisions were not only agreeable to the Convention, but were also justified by popular demonstrations of loyalty to the mother country.

The  
Bicameral  
system.

The adoption of the Bicameral system might have been regarded as inevitable; but it will be necessary to remember that the conspicuous merit which that system is supposed to possess of securing the sovereignty of permanent majorities as opposed to the sovereignty of momentary majorities, was less regarded than the opportunity which it afforded of securing a representation of the States as well as of the united people of the Commonwealth. The circumstances will go far to explain certain constitutional peculiarities which might otherwise occasion surprise. It was emphatically asserted that federal principles required for the validity of every legislative change the consent of the majority of States as well as of the majority of the united people of the Commonwealth.

The Upper  
House or  
Senate.

The nature of the constitution and functions of the Australian Federal Senate serve to remind one of a distinction which it is very necessary to bear in mind when judging the work of the Australian Convention. I allude to the distinction between problems which are incidental to democracy, and problems which are incidental to federalism. It is by reference to the latter that we must explain the provision of the Commonwealth Bill that the representation

of each State shall be equal; it is by reference to the former that we must explain the popular election of senators, and the delimitation of senatorial powers with respect to money bills. The temper in which the Convention debated and decided these questions indicated a significant democratisation between the years 1891 and 1897. In the Convention of the former year, the equal representation of the States was assumed as practically beyond question. In the Convention of 1897-98 the motion for equal representation was supported by a large majority. But the opposition was vigorous, and a large section of the majority appear to have regarded the sacrifice of democratic principle as a dangerous departure only to be justified by the necessity of conciliating the fears of smaller States. "In making this sacrifice from the strict theory of majority rule," remarked the Premier of New South Wales subsequently to the Convention, "it was urged that we must trust the smaller States. It is a matter of great regret to me that we could not succeed in persuading the smaller States to trust the larger."

Equal  
repre-  
sentation.

Under the Bill of 1891, the important responsibility of choosing Federal Senators had been imposed upon the Legislatures of the several States. A proposal to leave the *mode of election* to the discretion of the States was negatived by an overwhelming majority. In the Convention of 1897-98, the unanimity was hardly less marked; but it took a different direction. Senators are to be chosen by popular election; they are to be paid; the franchise is to be the same as for the Lower House; and no elector is to have more than one vote. A more democratic Senate could hardly be conceived.

Mode of  
election.

Reference has been made to the delimitation of senatorial powers in the matter of money bills. In all measures of taxation or appropriation the activity of the Senate is confined by the Constitution to the *suggestion* of amendment. Under the circumstances stated in the pre-

Money  
bills.

ceding paragraph, it may seem natural to attribute the prohibition on senatorial amendment to other than democratic considerations. But in reality the prohibition was the natural consequence of the concession of an equality of State representation, wherein the democrat detected "the cloven foot of minority rule."

The Senate  
and Con-  
servatism.

The triumph of radical principles in 1898 has been so conspicuous, that it is somewhat surprising to observe the retention of certain devices which indicate the significance of the Upper House as a conservatively democratic institution, *i.e.* as a means for securing the sovereignty of the maturer judgment of the people. The senatorial office is tenable for six years; and senators retire in rotation, *i.e.* one-half in every third year. The result is conservative in two ways; it permits a more continuous existence in the *assembly*, and tends to secure a greater independence among the *individuals*.

The House  
of Repre-  
sentatives.

The constitution and functions of the House of Representatives exemplify that combination of democratic and federal principles to which allusion has been made. In all federations, the special recognition which the States receive in the Federal Senate is balanced by an essentially national representation in the Lower House. Accordingly, the Commonwealth Bill has constructed the House of Representatives on the basis of population, except for a proviso that no State shall have less than five members. On the other hand, in every democracy the Lower House is supposed to represent the liberal and progressive element in the constitution. Accordingly, the official tenure of the representative is three years instead of six, as in the case of the senator; responsiveness to popular feeling is checked by no provision for retirement by rotation; representatives are to be paid at the rate of £400 per annum; until the Federal Parliament adopts a uniform franchise, the qualifications are to be those which the several States prescribe for the election of

their more popular House; and no elector is to have more than one vote. But Parliament can only adopt a uniform franchise on the condition of accepting women suffrage. Women vote in South Australia: and Section 41 of the Constitution provides that "No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State, shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth."

Very generally, but not universally, the representative governments of the world have accredited the more popular chamber with extensive and peculiar privileges in questions of finance. The origin of the practice must be sought in early English history, when the tax-paying classes were chiefly represented in the Lower House. Under such conditions it was natural to claim for that house a paramount influence in financial legislation. But the practice has survived the circumstances of its origin. In Australia, at any rate, it would generally be said that the taxable population are represented in the Upper House rather than in the Lower. Whether, under existing conditions, the practice is an unfortunate survival, or possesses a new foundation in expediency, is a question which Australian statesmen were compelled to face.

Peculiar  
powers of  
the House  
of Repre-  
sentatives.

The Convention debates on the subject displayed great feeling although the argument did not proceed on the lines with which students of politics are most familiar. The existence of an identical franchise for both Houses made the question mainly one of large States, which predominated in the House of Representatives, as opposed to the small States, which predominated in the Senate. The victory ultimately rested with the larger States. Neither appropriation nor taxation bills can originate in the Senate, nor

can the Senate amend such bills; nor can the Senate amend any proposed law so as to increase any proposed charge or burden on the people. On the other hand, tacking is forbidden, and the Senate may amend money bills other than taxation or appropriation, and may reject or suggest amendments to all money bills.

Powers of  
the Federal  
Legisla-  
ture.

The subject which ranks next to the constitution of a Federal Legislature is the definition of its powers. The problems which arise in this connection are often difficult; but the principles to be applied are elementary. Questions of purely local interest must be left to the governments of the States; all other questions must be transferred to the Federal government, unless the transfer involves too great a disturbance of existing laws or interests. When the Convention came to apply these principles to actual cases, considerable difficulty was experienced in dealing with tariffs. The requirements of provincial revenues and the existence of vested interests in the several States were alike opposed to the surrender of customs to the Federal government. But the supreme importance of inter-colonial free-trade overruled other considerations; and free trade between the colonies implies a uniform tariff on goods from beyond the colonies. Accordingly, the Federal government was invested with the exclusive privilege of levying custom and excise duties, although in the interest of State Treasuries it was provided that three-fourths of the revenue so obtained should be returned to the several States. Electors in the free trade colony of New South Wales subsequently expressed a strong objection to this proviso, on the ground that it placed the Federal government under the necessity of levying by customs and excise four times the amount required to be levied in that way for purposes of the Federal revenue; and the proviso, which was largely responsible for the delay in the accept-

ance of the Bill by New South Wales, soon came to be known as the Braddon Blot, after the distinguished statesman who was responsible for its insertion. The Conference of Premiers in 1899 limited the application of the Braddon clause to a period of ten years. Among the other powers which the Convention accredited to the Federal government are the management of external affairs, trade and commerce with other countries, quarantine, fisheries, currency, coinage, weights and measures, banking, insurance, copyrights, patents, naturalisation, marriage, divorce, invalid and old age pensions, and matters referred to the Federal Parliament by the States. Many of these powers are necessarily exclusive; but the powers expressly defined by the Constitution as exclusively within the control of the Federal Parliament are (1) to levy customs and excise; (2) to grant bounties; and (3) to make laws respecting the seat of government, or the administration of departments transferred to the Commonwealth.

On no question did there arise a more intense feeling, Deadlocks.  
on no question was there attained a higher level of debate, than on the mode of securing an amicable settlement of those differences which experience has taught us to expect from the institution of two Houses of Legislature. The Commonwealth Bill of 1891 had contained no provisions for "deadlocks"; but the motives for supplying an alleged deficiency were stimulated by previous experiences of the conservative tendencies of Upper Chambers, and by a very natural fear that the concession of equal State representation in the Senate must impose a serious obstacle to majority rule, if the opposition of that body should be placed beyond the limits of coercion or control. The Convention debates on this subject were begun at the Adelaide session, and in the subsequent sessions were maintained with unabated vigour. A large party were

opposed to *any* mechanical devices for overcoming the resistance of the Upper House. But the temper of the Convention as a whole was unmistakable, and the real question was one of providing ways and means. Among many alternatives suggested, there were proposals for a dissolution of either or both Houses, a proposal for a National Referendum, and a proposal for a Dual Referendum requiring the approval of the majorities in the several States as well as of the whole body of the electors. Ultimately the Convention adopted the plan of a double dissolution, to be followed, when necessary, by a joint sitting. In detail, the procedure is as follows: If the House of Representatives passes a Bill which the Senate is not prepared to accept, or is only prepared to accept with modifications to which the Lower House cannot agree, an interval of three months must be allowed to elapse. Then the proposed measure may again be passed and again submitted for the approval of the Senate. If no agreement is arrived at, the Governor-General may dissolve both Houses. If after re-election there is still disagreement, the Houses meet in a joint sitting, and the Bill is to be declared passed if supported by three-fifths of those voting. The requirement of a three-fifths majority, and the perpetration of the Braddon Blot, constituted the chief difficulties in the way of the acceptance of the Bill by the electors of the parent colony. That such provisions should have been regarded as objectionable is not surprising; but that they should have been regarded as fatal was probably less due to their intrinsic unreasonableness than to the strength of provincial sentiment in a colony whose citizens enjoyed the conviction of exceptional prosperity. At the Conference of Premiers in 1899 it was agreed to substitute an absolute majority for the three-fifths majority of members voting required by the Convention.



The questions which call for discussion in constituting a Federal Legislature, although they received far more attention at the hands of the Australian Convention, are probably less difficult in their nature than those which arise in devising a Federal Administration. "The greatest problem that free peoples have to solve," writes Bryce, "is how to enable the citizens at large to conduct or control the executive business of the State." The chief difficulty is to determine the relation of the Executive to the Legislature. In modern Constitutions two very different courses have been adopted. Sometimes, as in the case of the United States, the Executive enjoys an independence of the Legislature, and is subjected to a popular control by the introduction of an elective element in Ministerial appointments. Sometimes, as in the case of Great Britain and the Colonies, the Executive is subordinated to the Legislature, and a popular control is secured by Ministerial responsibility to Parliament. The Convention had to choose between these systems in undertaking the difficult task of constituting a Federal Administration. The Commonwealth Bill of 1891 had conferred upon the Governor-General the privilege of appointing Ministers of State. But the Governor-General was appointed by the Crown, and it is perhaps difficult to see how a popular control could be effected unless his appointments were in some way or other subjected to Parliamentary control. Yet the defects of Parliamentary government are so many and have been so effectually displayed in Australian history that it may be worth while to consider the array of arguments which its supporters were compelled to face. Of the two objections which will most readily appeal to European readers, one is of a negative, the other of a positive character. Negatively, Parliamentary responsibility deprives the Executive of the power of restraining the Legislature. The weakness of the

The  
Federal  
Executive.

Some objections  
to Parliamentary  
government.  
(1) Negative.

ministers indifferent." The official who knows his life is to be short is very apt to decide that it shall also be merry, and that determination is not likely to be less emphatic because of the conviction that he will lose his portfolio for the derelictions of his colleagues rather than for his own.

It is undoubtedly true that several of the evils just indicated are by no means inseparable from Parliamentary government. In Switzerland the Executive, though elected and controlled by Parliament and though able to speak in Parliament, holds office for a fixed period and independently of Parliamentary majorities. Although this compromise is only effected at the sacrifice of some of the real merits of the English Cabinet system, it has been made a part of the ministerial programme in at least two of the colonies, and has elsewhere received considerable attention.

The Swiss  
Executive.

In addition to those negative or positive arguments against Parliamentary government to which I have alluded, there are two others which derive their force from the particular conditions of Australian politics. Of these the first is the relative inefficiency of party government in the colonies. The work of a Ministry has a tendency to resolve itself into the dexterous art of combining isolated Parliamentary groups. But this art is not a very common one, and might be supposed to require for its exercise an unlimited patronage. Accordingly, Responsible government in the colonies has displayed a very exceptional instability. Where the whip of party discipline is unknown, it is fatally easy for the member, covetous of office or of emolument, to stifle his conscience and to commit with impunity the most flagrant desertions. A second objection against Responsible government springs out of the particular conditions of Australian politics; namely, the federal character of the Parliament to which the Executive must be responsible. The recognition of the dual principle in the

Peculiar  
difficulties  
in the ap-  
plication  
of Parlia-  
mentary  
govern-  
ment to the  
colonies.  
(1) Party  
govern-  
ment.

(2) Federal-  
ism.

Executive may be comprehensible and expedient where its tenure is hereditary; but the rapid democratisation of political institutions supplies additional reasons for securing constitutional checks. Of American experience Bryce speaks with authority: "It is an interesting commentary on the tendencies of democratic government that in America reliance is coming to be placed more and more, in the nation, in the State, and in the city, upon the veto of the Executive as a protection to the community against the legislative branch. Weak Executives frequently do harm, but a strong Executive has rarely abused popular confidence. On the other hand, instances where the Executive, by the use of his veto power, has arrested mischiefs due to the action of the Legislature are by no means rare. This circumstance leads some Americans to believe that the day is not far distant when in England some sort of veto power, or other constitutional safeguard, must be interposed to protect the people against a hasty decision of their representatives."<sup>1</sup>

(2) Positive

There are certain positive evils which must be added to the negative evil that Parliamentary government leaves a Legislature without executive restraint. Parliamentary government, in the form which has been generally adopted, seems increasingly likely to involve capricious administration. This is the natural result of constant ministerial changes. Ministers new to office and inexperienced in its difficulties are constantly being appointed to preside over departments requiring considerable training, and perhaps considerable skill. Of course such evils are likely to occur under any government, but they occur with special frequency under that known as Parliamentary or Responsible. Further, as Bagehot points out, "The system not only makes new ministers ignorant, but keeps present

<sup>1</sup> Bryce, *The American Commonwealth*, vol. i. pp. 289, 290.

ministers indifferent." The official who knows his life is to be short is very apt to decide that it shall also be merry, and that determination is not likely to be less emphatic because of the conviction that he will lose his portfolio for the derelictions of his colleagues rather than for his own.

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sphere of legislation by the adoption of equal representation in the Senate, naturally suggested the recognition of a similar principle in the constitution of the Executive. Sir Samuel Griffiths very clearly expressed his opinion in favour of Executive responsibility to the Senate (or States Assembly) as well as to the House of Representatives (or National Assembly). But the impracticability of this scheme was generally admitted by the Convention, and was abundantly demonstrated by reference to the instability of Australian Executives enjoying a responsibility to *one* House. While, however, some proceeded to argue in favour of exclusive responsibility to the Federal House of Representatives, others were disposed to suggest the complete abolition of Responsible government.

Some objections to Presidential government.

The general conclusion of the preceding arguments, whether drawn from universal experience or from the peculiar conditions of Australian politics, is so obviously hostile to the system of Parliamentary government that it may be well to remember the objections to which the alternative of Executive independence is exposed. Nowhere perhaps is the case from this point of view so well expressed as in *The American Commonwealth*. "The nation does not always know," writes Bryce, "how or where to fix responsibility for misfeasance or neglect. The person and bodies concerned in making and executing the laws are so related to one another that each can generally shift the burden of blame on some one else, and no one acts under the full sense of direct accountability.

"There is a loss of force by friction—i.e. part of the energy, force and time of the men and bodies that make up the government is dissipated in struggles with one another. This belongs to all free governments, because all free governments rely upon checks. But the more checks the more friction.

"There is a risk that Executive vigour and promptitude may be found wanting at critical moments.

"We may include these defects in one general expression. There is in the American Government, considered as a whole, a want of unity. Its branches are unconnected; their efforts are not directed to one aim, do not produce one harmonious result. The sailors, the helmsman, the engineer do not seem to have one purpose or obey one will, so that instead of making steady way the vessel may pursue a devious or zigzag course, and sometimes merely turn round and round in the water. The more closely any one watches from year to year the history of free governments, and himself swims in the deep-eddying time current, the more does he feel that current's force, so that human foresight and purpose seem to count for little, and ministers and Parliaments to be swept along they know not whither by some overmastering fate or overruling providence."<sup>1</sup>

How did the Australian Convention act, in deciding between the arguments which have been very briefly indicated in preceding paragraphs? Sir Samuel Griffiths had suggested the expediency of framing a constitution under which Parliamentary government would be possible without being necessary. But it is questionable whether this advice has been followed. The ministers are appointed by the Governor-General and hold office during his pleasure. Under these conditions the implication of a Parliamentary Executive, as opposed to a popularly elected Executive, seems almost inevitable. The implication is strengthened by a clause the significance of which might be regarded as conclusive. "After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives." Of course there is the possibility that

The decision of the Australian Convention.

<sup>1</sup> Bryce, *The American Commonwealth*, vol. i. pp. 293, 294.

this provision, like that in the constitution of the United States for the election of President, may ultimately produce a result directly contrary to the original intention of those who drafted it.

The Judiciary.

The judicial department of the Federal government remains for consideration. The constitution creates a Federal High Court and empowers the Federal Parliament to constitute other courts, and to endow the courts of the several States with Federal jurisdiction. The jurisdiction of the High Court is original or appellate. The original jurisdiction is confined to certain cases of special moment, as for example cases arising under treaty, affecting consuls or representatives of foreign countries, involving the Commonwealth as a party, or arising between two States or between a State and a resident of another State. In addition, there are certain causes to which the original jurisdiction of the High Court may be extended by act of the Federal Parliament, *e.g.* cases arising under the Constitution.

The High Court.  
(1) Original jurisdiction

appellate jurisdiction.

The appellate jurisdiction of the High Court necessarily extends to appeals from subordinate Federal Courts or from State Courts of Federal jurisdiction. But quite apart from these cases, and somewhat inconsistently with Federal principle, the High Court may try appeals from the Supreme Courts of the several States. The old practice of referring such appeals to the Privy Council, while supported by many as necessary to the integrity of the empire, has been regarded by others as costly and troublesome. Under the compromise finally effected at the Melbourne session, in almost all cases the appellant may choose between the High Court and the Privy Council. The judgment of the High Court of Australia is to be absolutely final, unless leave to appeal is specially granted by the Privy Council. But the Parliament may limit the matters in which such leave may be asked.

The causes over which the courts of the Commonwealth have jurisdiction are determined by reference to Federal principles. In order to enforce the laws of the Australian Parliament, it is necessary that cases arising under them may be determined by the Federal judiciary. Accordingly the Federal Parliament is empowered to confer an original jurisdiction upon Federal Courts in any matter arising under the Commonwealth laws. Moreover, where the relations of the Commonwealth to some foreign power are likely to be affected, and in general wherever its peace and safety are at stake, the superiority of its courts must be unquestioned. Where a State is one of the parties to an action, impartiality may seem to require the administration of justice by some tribunal superior to State attachment or State prejudices. In the United States of America, much ill feeling was aroused over the question whether an action should lie against a State in the Federal Courts. It was felt that to allow such an action was highly derogatory to State dignity. In the case of *Chisholm v. the State of Georgia*, the Supreme Court held that an action lay. This celebrated decision excited so much hostility that the constitution was amended and it became possible for the separate States to repudiate their debts with impunity. In point of fact several of the States have done so. As we have already seen, the Australian Constitution gives the High Court an original jurisdiction in disputes between two States, or between one State and a resident of another State; but *not* in disputes between a State and a party resident within its borders. There is, however, nothing in the Constitution to prevent such cases from coming under the jurisdiction of the High Court on appeal.

Cases of  
federal  
cognisance.

The general principles for regulating the relations of the Federal to the State Courts are not prescribed in the Constitution. But, under section 77, the Federal Parlia-

Federal  
and State  
Courts.



ment is empowered to define the limits within which the jurisdiction of Federal Courts shall be exclusive of that which belongs to, or is vested in, the Courts of the States.

Interpre-  
tation of  
the Consti-  
tution.

Up to the present stage only one of the elements of dual or federal government has been considered, the co-existence of central and local governments, respectively empowered to deal with matters of common and provincial interests, and exercising within prescribed limits a mutually independent authority. Since, however, disputes are certain to arise on the interpretation of the limits which the Constitution prescribed, it is necessary to establish a supreme judicial tribunal. Logical considerations might seem to require that this tribunal should be distinct in its organisation from the governments whose sphere of activity it has to define. As a matter of fact, however, the ordinary Federal Courts have usually been entrusted with this very delicate work. The Australian Bill has empowered the Federal Parliament to confer an original jurisdiction on the High Court in matters arising under the Constitution or involving its interpretation. To ensure that the judges shall be above all suspicion of bias, they are appointed by the Governor-General in Council, are secured from all reductions of salary during their tenure of office, and are irremovable except for misbehaviour or incapacity attested by an address from both Houses of Parliament.

Amend-  
ment of  
the Consti-  
tution.

If the conception of dual government is to be realised, something more is necessary than the recognition of mutually independent governmental systems, and the determination of their respective powers by an impartial tribunal. Imperfections in the original Constitution are inevitable; and new national needs will call for a new distribution of governmental powers. Under the conditions of modern society more especially, the great forces which tell for unity of organisation will call for an increased centralisation in

legislation. In Australia, the tendency in this direction is certain. Accordingly, the Australian Convention provided a means for amending the Federal Constitution. In order to combine legislative skill with an impartiality to State or Federal prejudices, it was thought necessary to effect a division of responsibility. For legislative skill, reliance was placed upon the Federal Parliament. Much more difficulty was experienced in defining an impartial authority for the purposes of final approval. Several suggestions were made, but only two seemed practicable. The first was that adopted by the Convention of 1891, which had reserved the right of ultimate approval to conventions chosen by the electors of the several States for the express purpose of dealing with the proposed amendment. The alternative suggestion, and one which was more in sympathy with later democratic tendencies, was to refer to the direct approval of the popular vote the changes which the Federal Parliament had proposed. To this course existed the obvious objection that the enthusiasm which an election excites may be necessary to secure a popular acquaintance with the question at issue. Ultimately, however, the Convention adopted the more democratic alternative, and ordained that Bills for altering the Constitution, after receiving the support of an absolute majority of both Houses, should be submitted to the dual referendum, and should require the approval of a majority of electors voting and of separate majorities in more than half the States. By the alterations effected at the Premiers' Conference in 1899 either House may, subject to certain delays, refer a proposed amendment of the Constitution to the popular vote, where the two Houses disagree.

The section of the Constitution which prescribes the method of amendment includes a proviso of which the precise effect appears somewhat doubtful. The proviso

reads as follows: "No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering, the limits of the State, or in any manner affecting the provisions of the Constitution relating thereto, shall become law unless the majority of the electors voting in that State approve the proposed law."<sup>1</sup> The clause suggests an attempt to legally limit an ultimate sovereign authority. In non-Federal Constitutions such an attempt has been made more than once, and the result has been to establish an additional motive against change, but not to impose a legal barrier. It is perhaps difficult to say what would happen if the clause in the Commonwealth Bill were violated. On behalf of the State prejudiced, it would doubtless be urged that the sovereign authority created by the Constitution was a varying body, constituted for almost all cases by the Federal Parliament plus the dual referendum, but, for the two exceptional matters, constituted of these bodies together with the majority of the electors in the State whose interest was attacked.

<sup>1</sup> Draft Bill, *Commonwealth of Australia*, sec. 127, last par.

## APPENDIX B

### SOME OPINIONS OF AUSTRALIAN LEADERS ON THE COMMONWEALTH BILL

IN the *Review of Reviews* for March 1898 there are some expressions of opinion on the Commonwealth Bill to which a peculiar significance must be attached. I take the liberty of making several extracts dealing with questions which have recently received much discussion.

#### *Democratic Character of the Bill*

"I welcome the Constitution as the most magnificent institution into which the chosen representatives of a free and enlightened people have ever breathed the spirit of popular sentiment and of national hope."—*Mr. Kingston.*

"Nothing can be done under the Constitution which is contrary to the will of the people."—*Sir Edward Braddon.*

"It is a Constitution framed for a free people."—*Mr. Barton.*

"If ever there was a people's Constitution it is this one."—*Mr. Holder.*

"This Bill is more liberal than any other Constitution in the world. No other Constitution provides for the election of both Houses by the whole people, or for a double dissolution."—*Mr. Deakin.*

"Fancy describing as 'conservative' and 'dangerous' a scheme of representative and responsible government based on the bicameral system with manhood suffrage, one-man-one-vote, and a double dissolution of both Houses in case of deadlocks."—*Dr Quick*.

### *The equal Representation of States in the Senate*

"Those who continue to denounce equal representation now are, in fact, the opponents of union, because they oppose the only form which the people of Australia will agree to."—*Mr. Wise*.

### *The Federal Tariff*

"The financial clauses should prove satisfactory; nothing more so has been proposed, and nothing less so had a likelihood of acceptance."—*Sir Philip Fysh*.

"Electors may usefully observe that, while some of our critics declare that Federation is a surrender of free trade, others declare that it is a surrender of protection. When extremists agree in condemning a particular cause, moderate and sensible men may fairly assume it to be right."—*Mr. Wise*.

### *The Question of Postponement*

"There are flaws in the scheme, and so are there spots on the sun, but we do not therefore refuse to share the light it sheds on us. . . . If we do not come in now, we shall have failed to take at its flood the tide that leads on to fortune, and, having done that, shall have done irreparable damage to the cause of Australian Nationhood."—*Mr. Holder*.

"Warnings have been given as to the dangers of union, but we are entitled to reply that the account shall be balanced by an estimate of the dangers of disunion."—*Mr. Deakin.*

"I wish to tell the people of Australia that if they do not go to the poll and vote for the Federal Constitution which the Convention recommended to them, a fatal blow will be struck at the whole movement."—*Sir Richard Baker.*

THE END